

## 1 UNITED STATES DISTRICT COURT

## 2 EASTERN DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA, )

4 Plaintiff, )

DOCKET NO. 5:13-CR-00305-BO1

5 VS. )

6 BASIT JAVED SHEIKH, )

7 Defendant. )

8  
9  
10 TRANSCRIPT OF DETENTION HEARING PROCEEDINGS  
11 BEFORE THE HONORABLE WILLIAM A. WEBB  
THURSDAY, NOVEMBER 7, 2013; 9:58 A.M.  
RALEIGH, NORTH CAROLINA

## 12 FOR THE PLAINTIFF:

13 United States Attorney's Office  
By: Jason M. Kellhofer, AUSA  
Eric Gouliau, AUSA  
14 310 New Bern Avenue, Suite 800  
Raleigh, North Carolina 27601

## 15 FOR THE DEFENDANT:

16 Office of Federal Public Defender  
By: Joseph B. Gilbert, AFD  
17 Robert E. Waters, AFD  
150 Fayetteville St., Suite 450  
18 Raleigh, North Carolina 27601

19 Audio Operator: COURT PERSONNEL

20  
21 Proceedings recorded by electronic sound recording,  
22 transcript produced by transcription service.

23 JANICE RUSSELL TRANSCRIPTS

1133 TANAGER TRAIL

24 VIRGINIA BEACH, VIRGINIA 23451

(757) 422-9089

25 trussell131@cox.net

I N D E X

NOVEMBER 7, 2013

## Defendant's

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
-------------------	---------------	--------------	-----------------

Javed Sheikh	7	10	24
--------------	---	----	----

Rehana Javed	82		
--------------	----	--	--

Sara Sheikh	90		
-------------	----	--	--

## Government's

Witnesses:

Jason Maslow	40	61	
--------------	----	----	--

EXHIBITS:MarkedReceived

1 thru 9 Facebook materials	50	--
-----------------------------	----	----

ARGUMENT:	Mr. Kellhofer	92
-----------	---------------	----

	Mr. Sheikh	95
--	------------	----

THE COURT:	Finding	100
------------	---------	-----

P R O C E E D I N G S

(Call to Order of the Court)

THE COURT: Good morning.

MR. GOULIAN: Good morning, Your Honor.

MR. GILBERT: Good morning.

MR. SHEIKH: Good morning.

(Pause)

THE COURT: The indictment in this case is presently sealed, Mr. Gouljian. What's the Government's position on that?

MR. GOULIAN: Your Honor, the Government moves to unseal the indictment.

THE COURT: The Government's motion to unseal the indictment is granted.

When we were here last I raised a number of questions, most of which, if not all of which, have been resolved by the return of an indictment by a Grand Jury in this District.

Mr. Gilbert, I appointed your office as stand-by counsel since the defendant had indicated he wished to represent himself. Is that still the status of --

MR. SHEIKH: Yes, sir. I still repre, would wish to --

THE COURT: You'll have to stand when you speak.

MR. SHEIKH: I'm sorry.

Yes, sir. I still wish to represent myself and I have asked my parents to contact my Aunt Bessie to ask for counselor

1 help in regards to my case. And I was given a copy of the  
2 charge -- brief copy -- initial charges against me and --

3 THE COURT: Mr. Gilbert, would you come --

4 MR. SHEIKH: -- I would need Mr. Gilbert's help in  
5 presenting my case as he told me like his services of the  
6 Federal Public Defender are free, but, however, I still feel  
7 like I want to present my case as how I see it.

8 So I would like to defend myself, but I would need the  
9 federal prosecution's help to present it.

10 THE COURT: I've given you stand-by counsel. The --

11 MR. SHEIKH: Right.

12 THE COURT: -- Public Defender's determined to appoint  
13 two persons. I'm not sure what provision in the statute --

14 MR. SHEIKH: Uh-huh (indicating an affirmative  
15 response).

16 THE COURT: -- does that, but that's neither here nor  
17 there.

18 Mr. Gilbert, if you'd approach, there's a copy of the  
19 indictment.

20 MR. GILBERT: Thank you, Your Honor.

21 (Indictment provided to Mr. Gilbert.)

22 THE COURT: You, you both can have a seat.

23 The indictment simply tracks the language of the criminal  
24 complaint and as a result, I don't see any need for a second  
25 initial appearance, but, Mr. Gilbert, you might want to confer

1 with the lawyer [sic] in this case and let me know whether or  
2 not --

3 Let, let me just tell you my preference. You're welcome to  
4 represent yourself. It's much easier if I ask the lawyers, who  
5 are standby, the questions I have, let them talk to you, and  
6 let them talk to me. That, that'll save a lot of problems, but  
7 it is your case.

8 MR. SHEIKH: Uh-huh (indicating an affirmative  
9 response).

10 THE COURT: You're in charge.

11 MR. SHEIKH: Uh-huh (indicating an affirmative  
12 response).

13 THE COURT: If there's a disagreement between you and  
14 the stand-by lawyers, you win. We can get this, through this  
15 fairly easily. I think it's wise to use the assistance of the  
16 Public Defenders in preparing and presenting your case and  
17 we're going to proceed on that basis. As I said, you'll be  
18 held to the same standards as a lawyer, in any event.

19 Mr. Gilbert, would you confer and let me know whether or  
20 not Mr. Sheikh wants a second initial appearance on the  
21 indictment.

22 MR. GILBERT: Yes, sir.

23 (Mr. Gilbert confers with Mr. Sheikh.)

24 MR. GILBERT: He agrees, Your Honor, that there's,  
25 there's no cause for that, especially since the penalty remains

1 the same as --

2 THE COURT: Everything remains the same, the statute  
3 and the charges.

4 And this is the time for the detention hearing in this  
5 case. Congress when it enacted the Bail Reform Act and amended  
6 the Bail Reform Act, which governs this procedure, at a point  
7 added the type of charges you face to those which carry what's  
8 called a rebuttable presumption that you should be detained.

9 What that means is, as a Judge, I am instructed to, without  
10 more, hold you simply based on the charges. It is rebuttable  
11 in the sense that it allows you to produce evidence -- it's  
12 called a burden of production -- that tips the scale back to  
13 even. And the Government has an election of how it wishes to  
14 proceed. The burden of persuading me that you should be held  
15 in custody always remains with the Government.

16 So how do you wish to proceed? And you can consult with  
17 your attorneys.

18 (Mr. Sheikh consults with stand-by attorneys.)

19 MR. SHEIKH: I would like to rebut the presumption and  
20 proceed with the case.

21 THE COURT: Thank you.

22 You can call your witness, or whatever evidence you want to  
23 put on.

24 MR. SHEIKH: I'd like to call my dad as a witness to  
25 the stand.

1 THE COURT: Sir, would you come forward?

2 (Mr. Javed Sheikh complies.)

3 MR. GILBERT: He'd like to affirm.

4 THE COURTROOM DEPUTY: Here, sir. Raise your right  
5 hand and state your name for the court, please. State your  
6 name for the court, please.

7 MR. JAVED SHEIKH: Javed (indiscernible) Sheikh.

8 JAVED SHEIKH, DEFENDANT'S WITNESS, AFFIRMED

9 THE COURTROOM DEPUTY: Please take the stand.

10 THE COURT: You can ask whatever questions you wish to  
11 ask.

12 MR. SHEIKH: All right.

13 DIRECT EXAMINATION

14 BY MR. SHEIKH:

15 Q Do you understand --

16 MR. GILBERT: Speak louder and clearly.

17 Q BY MR. SHEIKH: Do you understand that the Judge sets the  
18 conditions of the release and that if the client does not  
19 comply with these conditions of release the client will be  
20 immediately arrested?

21 A In fact, I could not understand you properly.

22 Q Okay.

23 A Can you come a bit closer?

24 THE COURT: No.

25 THE WITNESS: I'm, in fact --

1 THE COURT: He cannot.

2 THE WITNESS: Okay.

3 THE COURT: I can seat you somewhere else, but he's  
4 not going to move from where he is.

5 MR. SHEIKH: Yes.

6 THE WITNESS: Okay.

7 MR. GILBERT: Speak louder.

8 Q BY MR. SHEIKH: Do you understand the charges that the  
9 Judges have set and the conditions of the release that if the  
10 client does not comply with the conditions of release the  
11 client will be immediately arrested, meaning me, that I be  
12 arrested if the, if the Judge sets the conditions for me? Do  
13 you understand that?

14 A I don't understand the conditions of the charges at this  
15 point of time properly.

16 MR. SHEIKH: Yes. The charges haven't been read out,  
17 Your Honor.

18 THE COURT: Well, there's no requirement to read the  
19 charges to your father. You are the person to be advised of  
20 the charges and the penalties and you indicated earlier that  
21 there was no need to read the, to go over another initial  
22 appearance.

23 Sir, what --

24 THE WITNESS: You understood the charges?

25 Q BY MR. SHEIKH: Yeah.



1 MR. SHEIKH: Well, I -- apparently my dad wasn't --

2 THE COURT: Let me do this and it'd be easier.

3 Sir, your son has called you as what's called a third-party  
4 custodian. Do you understand that?

5 THE WITNESS: Yes, please.

6 THE COURT: And a third-party custodian is someone who  
7 promises the court that if a person is released --

8 THE WITNESS: Yes.

9 THE COURT: -- under certain conditions that they will  
10 report any violations of conditions. You understand that?

11 THE WITNESS: Definitely, sir.

12 THE COURT: And you agree to do that?

13 THE WITNESS: Yes, I agree to do that.

14 THE COURT: Do you agree to do that knowing that if  
15 you do your son would be arrested and put in jail?

16 THE WITNESS: Yes.

17 THE COURT: And, nonetheless, you would do that?

18 THE WITNESS: Yes. If he doesn't violate, then it's  
19 fine. If he violates, yes, I know.

20 THE COURT: What would happen if your son were to be  
21 released is that the Clerk of this court would hand him a list  
22 of the conditions.

23 THE WITNESS: Okay.

24 THE COURT: You as the third-party custodian would  
25 also be asked to review those conditions and you would be

1 required to sign on the paperwork that you've read and  
2 understand and agree to monitor his behavior.

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: You agree to do all those things?

5 THE WITNESS: Yes.

6 THE COURT: Mr. Gouljian, you can ask any questions you  
7 want 'cause your voice will be loud enough to --

8 MR. GOULJIAN: Your Honor, Mr. Kellhofer will be  
9 handling the questioning.

10 MR. KELLHOFER: Thank you, Your Honor.

11 THE COURT: Mr. Kellhofer, then.

12 CROSS-EXAMINATION

13 BY MR. KELLHOFER:

14 Q Sir, where do you reside?

15 A Where is what?

16 Q Where do you live?

17 A I live at 300 Swansboro Drive, Cary, NC.

18 Q All right. And is that the location that your son has  
19 lived at as well --

20 A Yes.

21 Q -- over the last year?

22 A We live together.

23 Q Okay. Over the last year?

24 A Yes.

25 Q And he has a room in your house?

1 A Yes. He has a separate room in the house.

2 Q All right. During that time frame that he's been living at  
3 your house, has he had the ability to utilize a computer?

4 A Yes.

5 Q All right. And would that include any other devices like  
6 an iPad or other items that connect to the Internet?

7 A That, I don't know, but he has a computer and he has the  
8 ability to operate it.

9 Q All right.

10 A Right.

11 Q Over the past -- understood, sir.

12 Over the past year, have you supervised his use of the  
13 computer or his, his conduct on any other item to connect to  
14 the Internet?

15 A No, I'm not a computer man and I could not, I don't have  
16 the ability to go all these things and I have not seen  
17 anything.

18 Q Okay. Are you aware of what he does on the Internet?

19 A Internet?

20 Q Yes.

21 A Mostly, I understand the e-mails and then maybe, I mean --  
22 well, I do not know exactly --

23 Q Okay.

24 A -- what he do.

25 Q Are you familiar with a --

1 MR. SHEIKH: How is that related to my being released  
2 on probation --

3 THE WITNESS: Okay.

4 MR. SHEIKH: -- these questions?

5 THE COURT: There are two --

6 THE WITNESS: Ask --

7 THE COURT: There are two things you need to do. One,  
8 if you want to ask a question, you need to stand.

9 MR. SHEIKH: Okay.

10 THE COURT: Two, you need to say, "I object" --

11 MR. SHEIKH: I object.

12 THE COURT: -- or something else --

13 MR. SHEIKH: All right.

14 THE COURT: -- so that I can issue a ruling.

15 MR. SHEIKH: Oh.

16 THE COURT: Then I tell you when I want you to talk,  
17 okay?

18 MR. SHEIKH: So I, so if I need to object, then --

19 THE COURT: You've objected and your objection is  
20 what?

21 MR. SHEIKH: My objection is these, these questions  
22 pertaining to my, my behavior or what I do on the Internet is,  
23 is not related to me being released on probation today.

24 THE COURT: Well, actually, it is. If I were to  
25 release you, I could determine that you should not have any

1 contact with the Internet since much of what was alleged in the  
2 affidavit accompanying the criminal complaint occurred on the  
3 Internet.

4 MR. SHEIKH: Right.

5 THE COURT: So it's relevant. Your objection is  
6 overruled.

7 MR. SHEIKH: If, if I agree to abstain from using the  
8 Internet -- why -- if that --

9 THE COURT: You -- you don't --

10 MR. GILBERT: Have a seat.

11 THE COURT: It doesn't matter whether you agree or  
12 not.

13 You can have a seat.

14 MR. SHEIKH: All right.

15 THE COURT: It is up for me to determine what  
16 conditions you should be released on, if you should be  
17 released.

18 MR. SHEIKH: Okay.

19 THE COURT: And if you don't agree, then you just  
20 simply stay in jail.

21 You may continue.

22 THE WITNESS: All right.

23 MR. KELLHOFER: Thank you, Your Honor.

24 Q BY MR. KELLHOFER: Sir, are you familiar with your son's  
25 use of the website, Facebook?

1 A Facebook? Yes.

2 Q You are familiar with that?

3 A Yes, I'm familiar with it.

4 Q Are you familiar with your son's use of it and the things  
5 that he puts on Facebook?

6 A No. That, I don't know.

7 Q Okay. Are you familiar with people that he contacts  
8 through the use of Facebook?

9 A No.

10 Q Are you, or do you have any knowledge as to his attempt to  
11 travel into Syria?

12 A I -- he traveled two years back to Turkey. In fact, I, if  
13 you permit me, I -- could I give you two lines?

14 As I know him, he's a volunteer person.

15 Q I -- and I appreciate that --

16 A And --

17 Q -- sir, but right now --

18 A -- he do this volunteer jobs even in USA. There was a  
19 storm in Alabama --

20 Q Sir, I appreciate --

21 A -- and he --

22 Q -- that, but right now, if you could answer my questions  
23 and then, perhaps, if the additional matters are relevant, you  
24 can, you can answer those with --

25 A Okay, sir.

1 Q -- defense or, perhaps, with the Judge.

2 A Right, sir. Right, sir. Right, sir.

3 Q Right now, I'm asking you are you familiar with your son's  
4 attempt to get into Syria?

5 A Not attempt to Syria. He went to Turkey --

6 Q Okay.

7 A -- two years back.

8 Q During his --

9 A And then he --

10 Q All --

11 A He was -- some -- had (indiscernible) some injured people  
12 and other people. He was trying to do, help them over there  
13 for medicines and taking care of them as he's doing volunteer  
14 job for the, for here as well. That is his personality.

15 Q Okay.

16 Are you familiar with the fact that during his, that he had  
17 attempted to get into Syria? Are you familiar that he  
18 attempted to get into Syria?

19 A Yes. I, I have heard about it.

20 Q Okay.

21 MR. SHEIKH: I object.

22 Q BY MR. KELLHOFER: And are you --

23 A But I do not know --

24 THE COURT: Hold on for a minute.

25 THE WITNESS: -- what type of --

1 THE COURT: Excuse me. Hold on.

2 Yes?

3 MR. SHEIKH: I object to the prosecution that the,  
4 without seeing evidence that I attempted to get into Syria  
5 without, when I went to Turkey. Does he have any --

6 THE COURT: Well, I --

7 MR. SHEIKH: -- any, any evidence to prove his claim?

8 THE COURT: You made the objection and I've considered  
9 the objection. I don't know where he's going with this. I  
10 don't know when he's talking about you attempted to go into  
11 Syria.

12 MR. SHEIKH: Right.

13 THE COURT: But I'm going to allow the question.

14 MR. KELLHOFER: Thank you, Your Honor.

15 Q BY MR. KELLHOFER: My question was, are you familiar with  
16 your son attempting to travel into Syria?

17 THE COURT: Why don't you --

18 THE WITNESS: Attempting to travel into Syria?

19 Q BY MR. KELLHOFER: Yeah. Do you have --

20 THE COURT: Why don't, why don't you put that in the  
21 context of a date frame.

22 Q BY MR. KELLHOFER: The travel that you just mentioned in  
23 which your son was in Turkey --

24 A Yeah.

25 Q -- are you familiar with any attempt by him at that time to



1 travel into Syria as well?

2 THE COURT: That would have been two years ago.

3 THE WITNESS: Yeah, that's two years ago. I do not  
4 know exactly. He was doing maybe at the border of Turkey some  
5 welfare job taking care of the injured people and like that. I  
6 don't know exactly what he did there. I was not there with  
7 him. So I cannot say exactly what happened there.

8 Q BY MR. KELLHOFER: All right.

9 Are you familiar -- you stated that you were familiar with  
10 his use of Facebook, that he utilized it, correct?

11 THE COURT: I think what he was saying is that he was  
12 familiar with the fact that his son used Facebook.

13 THE WITNESS: Yeah.

14 MR. KELLHOFER: Understand.

15 THE WITNESS: Yeah, yeah.

16 Q BY MR. KELLHOFER: And are you aware that your son informed  
17 other people through Facebook that he was attempting to get  
18 into Syria during that --

19 A No.

20 Q -- trip?

21 A I never that he --

22 Q Can I, can I finish, sir?

23 A Yes, sir, please.

24 Q -- during the trip in which he traveled to Turkey? Are you  
25 familiar with that? Yes or no.

1 A No, sir. No, sir.

2 Q Okay. Thank you.

3 With regard to this past weekend, on November 2nd, were  
4 you, are you aware that your son was traveling out of the  
5 United States?

6 A Yes.

7 THE COURT: You can stand up and say, "I object."

8 MR. SHEIKH: I object. Like he --

9 THE COURT: What -- what --

10 MR. SHEIKH: He asserted, sir, that I posted on  
11 Facebook that I planned to travel to Syria and --

12 THE COURT: No. He, he asked your father the question  
13 I assume you're --

14 MR. SHEIKH: Right.

15 THE COURT: -- objecting to is what he knew about your  
16 trip this past Saturday.

17 MR. SHEIKH: Right. No, I think his question prior to  
18 that was that did he know that if I ever posted on Facebook  
19 that --

20 THE COURT: We're not going to go back and --

21 MR. SHEIKH: That was just --

22 THE COURT: Excuse me.

23 We're not going to go back and revisit things after the  
24 questions have moved on. If you want to object, you have to  
25 object at the time they're asked --

1 MR. SHEIKH: Right.

2 THE COURT: -- not after they're answered and another  
3 question's asked.

4 MR. SHEIKH: Right.

5 THE COURT: Thank you.

6 MR. SHEIKH: Thank you.

7 THE WITNESS: Yes, sir.

8 Q BY MR. KELLHOFER: I, I was asking you, then, about this  
9 past Saturday, I believe November 2nd.

10 Are you aware that your son was attempting to travel out of  
11 the United States?

12 A Yes, I know.

13 Q Okay. And do you know where he was traveling to?

14 A He and a friend (indiscernible). He was -- I -- he told me  
15 that he -- he said the friend is going from here to Toronto,  
16 then I think Toronto to Turkey, then maybe farther to Lebanon.

17 Q And did he inform you why he would be traveling to Lebanon?

18 A Yes. Again, the same thing is there. He want to help the,  
19 over there the -- there, he had some marriage issue of some,  
20 himself and some other friend and they -- also, he want to do  
21 some welfare work with the injured people and with the needy  
22 people over there, sick people.

23 Q All right.

24 Are you aware -- do you have any knowledge that he's told  
25 other people that --

1 A No.

2 Q -- he intended -- I haven't, haven't finished my question,  
3 sir.

4 A Okay, sir. I'm sorry.

5 Q Well, that --

6 Are you aware that he has told other people that he  
7 intended to go into Lebanon so that he could get into Syria and  
8 fight?

9 A No.

10 MR. SHEIKH: Object.

11 THE WITNESS: I don't know.

12 Q BY MR. KELLHOFER: You have no knowledge of that?

13 A Did not.

14 Q Okay.

15 THE COURT: Yes, sir. What's your objection?

16 MR. SHEIKH: I object. The prosecution is --

17 THE COURT: I'm sorry? You object.

18 MR. SHEIKH: Right.

19 THE COURT: What's -- why do you object?

20 MR. SHEIKH: He, he questioned my father regarding if  
21 I told anyone if, I wanted to fight while --

22 THE COURT: Yeah.

23 MR. SHEIKH: -- while I'm in Lebanon.

24 THE COURT: Perfectly proper question. Your  
25 objection's overruled.

1 MR. SHEIKH: But -- no. But --

2 Q BY MR. KELLHOFER: Sir, would you agree -- and I'm just  
3 asking you -- if, if those things that I've said, if your son  
4 did tell those things to people, that he intended to travel  
5 into Syria to fight --

6 MR. SHEIKH: Object.

7 THE WITNESS: No, sir, I don't.

8 Q BY MR. KELLHOFER: I, I understand.

9 THE COURT: Excuse me.

10 Q BY MR. KELLHOFER: What I'm asking you --

11 THE COURT: Objection.

12 I don't know what one gains at a detention hearing from  
13 asking a father if his son said something that's not in  
14 evidence.

15 MR. KELLHOFER: Well, Your Honor, I apologize. I  
16 can --

17 THE COURT: You don't have to apologize, but --

18 MR. KELLHOFER: I can either establish what I believe  
19 will be necessary for the follow-up agent, which would be  
20 Special Agent Maslow.

21 THE COURT: Well, you, you can do it in a reverse  
22 order.

23 MR. KELLHOFER: I -- yes, Your Honor.

24 THE COURT: You can bring him back as your witness and  
25 ask him whether he's familiar with those.

1 MR. KELLHOFER: I --

2 THE COURT: But to pose a bunch of hypotheticals to  
3 someone and say if that's true what flows from that I don't  
4 think it's useful to me. Now you -- you can -- I'm not going  
5 to truncate what you do, but I'm telling you, that's not going  
6 to be helpful to me at all.

7 MR. KELLHOFER: I understand and I agree, Your Honor.

8 So I'm asking the ability to ask the question, the  
9 contingency of the relevance being on the follow-up witness. I  
10 believe it would be efficient to the court to travel in that  
11 order.

12 THE COURT: I, I don't think so, but you can do  
13 whatever you want to do. I'm just telling you that I'm going  
14 to rein you in if you --

15 MR. SHEIKH: Object. He --

16 THE COURT: Excuse me. Sit down.

17 MR. SHEIKH: My attorney said --

18 THE COURT: When I finish talking --

19 MR. SHEIKH: Right, sir.

20 THE COURT: -- then you can do whatever you want to  
21 do.

22 I'm going to rein you in the way I would any lawyer in any  
23 case.

24 MR. KELLHOFER: Understood.

25 THE COURT: And I have told you as clearly as I could

1 that I don't think that's a profitable line of questions. If  
2 you want to persist in it, be my guest.

3 MR. KELLHOFER: Thank you, Your Honor.

4 Q BY MR. KELLHOFER: Sir, do you believe that you are able to  
5 control your son's activity?

6 A Yes. If he's released, then, as he told me, that there are  
7 certain conditions for that. So I will try my level best to  
8 control those conditions and control him as well.

9 Q All right. And is that because -- do you believe that  
10 you've been able to control his activity in the past in any  
11 regard?

12 A I don't see any of his bad activities to be controlled.  
13 There was one activity, he was not studying well. So I wasn't  
14 cross with him. "Okay. You finish your studies properly, then  
15 take the part in welfare and politics anywhere you like. It's  
16 a free country."

17 So that is my most of the time having a hard talk with him  
18 to finish his studies first so that he can do some job and like  
19 that and that as to all the activities, social and otherwise,  
20 he can continue that. So that is the end I'm continuing  
21 pursuing with regards. I want his studies to be complete,  
22 first.

23 Q Thank you, sir.

24 MR. KELLHOFER: I have no further questions, Your  
25 Honor.

1 THE WITNESS: Thank you.

2 MR. SHEIKH: And --

3 MR. GILBERT: Could I consult with him, Your Honor --

4 MR. SHEIKH: Let me -- let me --

5 MR. GILBERT: -- about redirect?

6 MR. SHEIKH: Let me finish this statement and then --

7 THE COURT: Well, you don't get to make statements.

8 You can ask your father questions based on what the United

9 States --

10 MR. SHEIKH: Let -- let me make --

11 THE COURT: Excuse me.

12 MR. SHEIKH: I'd like to question my father.

13 THE COURT: You sit when you question your father.

14 (Pause)

15 REDIRECT EXAMINATION

16 BY MR. SHEIKH:

17 Q My first question to my father is, does he know of any  
18 volunteer activities that I've done within the United States or  
19 while he has known me as a kid? And, and wherever we have  
20 lived how many times I have, I volunteered to help the  
21 community which I lived in and other, internationally or in the  
22 community that I live in?

23 A Yes, I know.

24 Q Could you name them?

25 A Yeah. I know once you went to Alabama. There was a storm



1 there.

2 Q There was a hurricane?

3 A A hurricane, a storm, that is the same thing.

4 Q Yeah.

5 A And he went there and stayed there for a few days.

6 Q To a week?

7 THE COURT: Excuse me.

8 THE WITNESS: A few days means a week. I don't know  
9 exactly, but -

10 Q BY MR. SHEIKH: Okay.

11 A -- (indiscernible).

12 THE COURT: Excuse me.

13 Q BY MR. SHEIKH: Okay. I can't --

14 THE COURT: Let -- let --

15 MR. SHEIKH: I understand.

16 THE COURT: Excuse me. Let me explain this to you.

17 MR. SHEIKH: Okay.

18 THE COURT: If you're going to represent yourself,  
19 you're going to act like a lawyer. You're not.

20 MR. SHEIKH: Right. I'm sorry.

21 THE COURT: Excuse me.

22 If you can't control how you act, I will ask the Marshals  
23 to remove you from the courtroom, I will put a television set  
24 in the jail cell, and put a microphone there and we can, we can  
25 proceed from there.

1 MR. SHEIKH: I apologize.

2 THE COURT: I don't want to do any of those things,  
3 but I'm not going to have a debate with you about any of the  
4 rules in this court. I tried to tell you as clearly as I could  
5 that you would be held to the same standards as a lawyer.

6 MR. SHEIKH: Right.

7 THE COURT: Lawyers don't get to do what you do. You  
8 don't see either, any of the four lawyers that are sitting at  
9 the tables jumping up interrupting me, interrupting other  
10 people, and the like.

11 MR. SHEIKH: I apologize, Your Honor. Okay.

12 THE COURT: Now you were, you were talking about the  
13 times you are aware that your son --

14 THE WITNESS: Yeah.

15 THE COURT: -- has done volunteer activities in the  
16 United States and in other countries. You can go ahead and --

17 THE WITNESS: Yes, sir.

18 I know that he went to Alabama and, for the help of sick  
19 people and stayed there for a few days.

20 Q BY MR. SHEIKH: And --

21 A And then he also --

22 Q Excuse me.

23 A -- volunteer in giving the blood donation to Red Cross, if  
24 I properly remember that. Yeah, Red Cross. People are -- you  
25 go over there and give them the blood donation pretty

1 regularly, maybe after six months or three months, for the help  
2 of the community and --

3 Q How does the community see your son, the local community?

4 A Yes. I never ever received any complaint of him, that he  
5 has any problem with anybody, neighborhood or --

6 Q Is your son --

7 A -- any school or anywhere.

8 Q Is, is your son an active member in the local community, in  
9 the local Muslim community?

10 A Yes. He's an active member. He's having a -- he's a  
11 passionate Muslim. Maybe I'm not that passionate. I may be  
12 going for my prayers to mosque once in a week and he may be  
13 going five times a day as well.

14 So that is -- in America, I'm very thankful for the  
15 Government and everybody, that they have given the freedom of  
16 this religion that anybody can --

17 Q Is -- are you aware that your son --

18 A -- (inaudible - talking over each other).

19 Q I'm sorry.

20 THE COURT: You're going to let your father and any  
21 other witness finish answering the questions unless you have an  
22 objection.

23 MR. SHEIKH: All right.

24 THE COURT: If you have an objection, even if it's  
25 your witness, you stand up and say, "I object," and then I'll

1 ask you what your objection is.

2 MR. SHEIKH: All right.

3 THE COURT: But you don't get to cut people off  
4 because you've determined that they finished.

5 MR. SHEIKH: All right, Your Honor.

6 Q BY MR. SHEIKH: Are -- do you have anything else to add?

7 A No. I said that was the question. I give the answer.

8 And then he went to this, there -- helping in the, and  
9 sought of any work to do at the center or somewhere. He's  
10 always volunteered there to help them out.

11 Q May I ask my next question?

12 A Yes, please.

13 Q All right.

14 My next question is, are you aware that --

15 A I think if you stand up I can see you better and it will be  
16 easy, if you like.

17 THE COURT: We don't like.

18 THE WITNESS: Okay.

19 THE COURT: Lawyers don't stand up in court.

20 THE WITNESS: Okay.

21 THE COURT: So sit down.

22 THE WITNESS: Okay. He's a lawyer. Okay.

23 THE COURT: If you, if you can't hear him, I will ask  
24 him to keep his voice up.

25 THE WITNESS: Yes. Thank you, sir.

1                   THE COURT: But we're not going to change the rules  
2 for him.

3                   THE WITNESS: Thank you, sir.

4 Q BY MR. SHEIKH: Are you aware of any medical problems or  
5 illnesses that your son may had over the past couple of years?

6 A Not huge medical problems, but he's having sometimes  
7 headaches and --

8 Q And has --

9 A -- like that and takes the pain medicines.

10 Q Has those medical problems affected his studies?

11 A Medical problem not affected, but I think what that, what I  
12 believe affected you is -- maybe I may be at fault in that -- I  
13 have been traveling a lot different countries for my job, but  
14 was usually sometimes when we shift one place to another is may  
15 be (indiscernible).

16               So one year have gone wasted. It happened two, three  
17 times. That's why his concentration to his studies while the  
18 stuff, but otherwise, he was a good student at the same time.

19 Q But --

20 A That is -- I feel it like that.

21 Q The defendant -- can I -- like your defendant has been like  
22 diagnosed while in custody with mild, mild symptoms of TB and  
23 has tested positive. So --

24 A Oh, my God.

25 Q -- you said you did not know that your son had --

1 A No, no. You -- I thought you were talking about previous.

2 Q No. I'm talking about the --

3 A I don't know about --

4 Q -- past two --

5 A -- you test anything.

6 Q And so --

7 A For last, one week when you --

8 Q So -- so --

9 A -- are in custody, I do not know any problem.

10 But yes, that you told me. Rather, you spoke to your  
11 mother when we came to visit. I was a third person. They did  
12 not allow me to go for a visit or to meet you.

13 So you told your mother that they tested you and you were  
14 positive and what --

15 Q Why -- why --

16 A -- you call it, TB.

17 Q Why was your son not diagnosed? Was it due to not -- did  
18 you have insurance?

19 A I don't have any insurance.

20 Q Health insurance?

21 A No.

22 Q So is that the reason why your son was not being --

23 MR. KELLHOFER: I'll object, Your Honor, to relevance.

24 THE COURT: I didn't think a lot of what you said was  
25 relevant. I'm going to let him answer the questions.

1 MR. KELLHOFER: Thank you, Your Honor.

2 THE WITNESS: Yes. Can you repeat it, please?

3 Q BY MR. SHEIKH: My question was, is not having, the lack of  
4 health insurance a reason why your, you were not able to  
5 diagnose your son's medical problem?

6 A Yes. That was one of the reason. I didn't have any  
7 insurance and I, I didn't have any insurance to go for any high  
8 medical checkups and didn't have the ability to pay any big  
9 cost to that.

10 Q So is -- is -- could --

11 A And I was not worried at the same time that you were, were  
12 having that big problem.

13 Q Could --

14 A I was not aware of that. You had some coughing problems to  
15 which you always take some medicines and then you got all  
16 right.

17 Q All right. So could that be the reason that he was, that  
18 your son was not being able to attend school or attend regular  
19 work?

20 A Maybe. I -- if you were having that problem, that could be  
21 one of the reason hampering you to continue your studies  
22 properly and doing the work successfully.

23 Q As -- if the bail were to granted today, like do you have  
24 any apprehension that --

25 A Yes.

1 Q -- that I might go or --

2 A I would like to confirm the court that I'll be very  
3 cautious and take care of you very properly and try to uphold  
4 their conditions to the best of my ability. And I'm sure that  
5 you would not let your father down and will do anything which  
6 is not wanted in that condition. I hope you would also agree  
7 with that.

8 You should also -- I have this question for you as well, if  
9 the court permits me.

10 THE COURT: You don't -- it doesn't work that way.

11 THE WITNESS: Doesn't work that -- okay, sir.

12 THE COURT: You can go see --

13 THE WITNESS: Yes.

14 THE COURT: -- him in jail and --

15 THE WITNESS: I will be trying to control you in all  
16 respect up to my hundred percent ability and I don't, I doubt  
17 that you will do anything --

18 Q BY MR. SHEIKH: How --

19 A -- further.

20 Yes?

21 Q How many siblings, or how many children or offspring that  
22 you have that reside in, in North Carolina?

23 A How many siblings?

24 Q How many children do you have?

25 A I have four kids.



1 Q Could you name them?

2 A Yes, please.

3 Basit Javed.

4 Q Who's the -- and the --

5 A Basit Javed, son, sitting right there (indicating).

6 Then No. 2 is Misbah (phonetic) Sheikh.

7 Q Where does Misbah live?

8 A Misbah lives in Dallas. She's married, having three kids.

9 Then Sylvia (phonetic) Sheikh, she's married living in  
10 Maryland, having one kid now. God has gifted her a baby girl  
11 a few days back.

12 And then there is one Sara Sheikh, sitting right there  
13 (indicating).

14 Q What does Sara do?

15 A (Indiscernible).

16 Yes, please?

17 Q What does Sara do?

18 A Sara is IT analyst in Cisco.

19 Q And did she study over here?

20 A Yes. She studied very --

21 Q Did all your kids study here?

22 A More -- all of them, when we came here, they were all in  
23 the school. And she has done extraordinary well in the school.  
24 She was always declared the Dean's Student four times  
25 consecutively and the Dean himself called us for a dinner and

1 he (indiscernible) that I was very brilliant student, but I  
2 could never achieve my, be a student nomination for consecutive  
3 three times.

4 So they appreciated her very well and we -- and she's doing  
5 very good part in the society helping and doing her  
6 contribution in the practical life.

7 Q Do you have any other relatives in, in Cary or in North  
8 Carolina or in America?

9 A Yes. We have quite --

10 Q Could you --

11 A -- good number of relatives --

12 Q Could you --

13 A -- in America.

14 Q -- tell how many?

15 A My one -- the eldest, my sister, eldest sister and she's  
16 sitting right there and her husband, Javed Karesh (phonetic).  
17 She's there.

18 MR. SHEIKH: Could she stand up for the court, Your  
19 Honor?

20 THE COURT: That's permitted.

21 THE WITNESS: She has --

22 MR. SHEIKH: Could she stand up? These are the --

23 THE COURT: That's, that's permitted --

24 THE WITNESS: Yeah.

25 THE COURT: -- for them to stand up as their --

1 MR. SHEIKH: Could you stand up --

2 THE COURT: -- names --

3 THE WITNESS: So that you can see.

4 Q BY MR. SHEIKH: So --

5 A And they are very well --

6 Q So -- so they were the family who sponsored us to come to  
7 America?

8 THE COURT: Excuse me.

9 You can ask any questions you want. It's perfectly  
10 permissible to ask them to stand up. It happens --

11 MR. SHEIKH: But --

12 THE COURT: -- not infrequently, but you have to ask  
13 your father. You don't get to make speeches, okay?

14 You may sit down. Thank you very much for coming.

15 THE WITNESS: Yes.

16 And they, all of them are very loyal citizens and having  
17 their families and kids at a very reputable level, different  
18 organizations, contributing to the American economy.

19 THE COURT: Mr. Sheikh?

20 THE WITNESS: Yes, please.

21 THE COURT: The only member of your family that's on  
22 trial, or needs to defend themselves is your son.

23 THE WITNESS: Yes.

24 THE COURT: The rest of you are presumed --

25 THE WITNESS: Yes, Judge.

1 THE COURT: -- to be loyal either citizens or peaceful  
2 inhabitants --

3 THE WITNESS: Yeah.

4 THE COURT: -- of the country. We -- we, you know --

5 THE WITNESS: I was just, actually, trying to respond  
6 to his question here.

7 THE COURT: I understand. No. I --

8 THE WITNESS: I got your point.

9 THE COURT: Yeah.

10 THE WITNESS: Thank you.

11 THE COURT: I just don't want you to think that --

12 THE WITNESS: Yes.

13 THE COURT: -- we think all of you --

14 THE WITNESS: Yes.

15 THE COURT: -- have done something wrong 'cause that's  
16 certainly not what I think and I know that's not --

17 THE WITNESS: And --

18 THE COURT: -- what the United States --

19 THE WITNESS: -- since it is my whole life -- I'm 63  
20 years old now -- this is my first sitting in any court, ever.  
21 Never had anywhere any problem.

22 THE COURT: You can ask your next question.

23 Q BY MR. SHEIKH: You said you son's education. How was his  
24 grades in school? Was he at school -- how was his GPA in  
25 school?

1 A His school here in America?

2 Q Yeah.

3 A Not real great, but he was having something in between.

4 Sometime in --

5 Q Do you have, do you have the transcripts, or have you ever  
6 seen the transcripts of your son?

7 A Not all the time, but sometime.

8 Q But if you haven't seen your transcript, how can you say  
9 your son was not --

10 A I think not all the time, but sometime I have seen it as  
11 well.

12 Q No, but my question is, if you haven't seen the transcripts  
13 of your son at school and the grades he has received, how can  
14 you be so sure?

15 A I'm just saying sometimes I've seen them. At the end of  
16 the semester I, I got your report and it was -- I was hopeful.  
17 All the kids were doing very well and I was under the  
18 impression that you were also doing well.

19 Q All right.

20 A But -- in fact, I was -- I should explain to the court why  
21 I could not see your transcript.

22 Q No. I'd like to move on.

23 THE COURT: Well --

24 THE WITNESS: Okay?

25 THE COURT: I, I think that gets a little farther --

1 MR. SHEIKH: Yeah.

2 THE COURT: -- than we need --

3 THE WITNESS: Okay.

4 THE COURT: -- to go, why you couldn't see his  
5 transcripts.

6 THE WITNESS: Yeah.

7 MR. SHEIKH: Right.

8 Q BY MR. SHEIKH: So if bail were to granted, like are you  
9 willing to keep me in your house?

10 A Yes, definitely.

11 Q All right. And --

12 A And I hope --

13 THE COURT: No.

14 THE WITNESS: Okay, right.

15 THE COURT: He's, he's asked a question. You've  
16 answered it.

17 THE WITNESS: Right.

18 THE COURT: And we'll go on to the next question.

19 THE WITNESS: Okay.

20 THE COURT: Do you have any other questions for your  
21 father.

22 Q BY MR. SHEIKH: Would, would you be able to treat your  
23 son's medical better if he were to be with you at home than  
24 he'd be in jail? Like would he get better health --

25 A Definitely. You would be --

1 Q -- get --

2 A I'll be taking more care of you there and trying --

3 Q And --

4 A -- everything for your health. Health is very important  
5 for everybody, too. I put my honor first to get you treatment.

6 Q So if your son wished to stay at home and granted bail, he  
7 -- he would -- his health would improve rather than --

8 A Definitely.

9 Q -- staying at the jail?

10 A Of course. And your education has to be completed at the  
11 same time.

12 Q Right.

13 A Health and education, I will try to force it, myself.

14 I will -- in fact, sir, you want to hear why I could not do  
15 (inaudible - talking over each other).

16 Q All right.

17 MR. SHEIKH: Thank, thank you, Your Honor.

18 THE COURT: I don't think it's important and --

19 THE WITNESS: Okay, sir. Right, sir.

20 THE COURT: --I think I've heard enough to determine  
21 that the defendant's father, Javed Sheikh, would constitute a  
22 suitable third-party custodian. That rebuts the presumption.

23 Sir, you may step down. Thank you.

24 THE WITNESS: Right. Thank you, Your Honor.

25 THE COURT: Having rebutted the presumption, the

1 Government at its election can present evidence relying on the  
2 indictment, or proceed however you want.

3 MR. KELLHOFER: Thank you, Your Honor.

4 I will at this time call Special Agent Jason Maslow to the  
5 stand.

6 THE COURTROOM DEPUTY: Place your left hand on the  
7 Bible and raise your right hand. State your name, please.

8 MR. MASLOW: Jason Maslow.

9 JASON MASLOW, GOVERNMENT'S WITNESS, SWORN

10 THE COURTROOM DEPUTY: Please take the stand.

11 DIRECT EXAMINATION

12 BY MR. KELLHOFER:

13 Q Sir, can you please tell us who you are employed by?

14 A The Federal Bureau of Investigation.

15 Q And how long have you been with the FBI?

16 A Approximately five years.

17 Q And what do your duties include?

18 A I investigate crimes revolving around international  
19 terrorism.

20 Q All right. And how long have you been doing that?

21 A For five years.

22 Q I'd like to ask you: Are you familiar with the defendant  
23 in this case?

24 A I am.

25 Q And how so?



1 A Through our investigation that we have conducted.

2 Q And is that -- can you go ahead and point him out and state  
3 who he is?

4 A Yes. It is Basit Javed Sheikh sitting right over there in  
5 the white and red-striped shirt.

6 Q All right. You stated --

7 THE COURT: The record will indicate that he's  
8 identified the defendant.

9 Q BY MR. KELLHOFER: And you stated that you are familiar  
10 with him through an investigation.

11 Can you just tell us, what does that investigation include?

12 A Yes. That investigation was looking into the defendant's  
13 activities in, in support of traveling overseas to join a  
14 designated terrorist organization and fight for them.

15 MR. SHEIKH: Object, Your Honor. Like --

16 THE COURT: I'm sorry? You need to stand.

17 MR. SHEIKH: I object. Does the prosecution have any  
18 evidence --

19 THE COURT: He's not required to have any evidence.  
20 He's asking questions.

21 MR. SHEIKH: All right.

22 THE COURT: And the questions themselves are not  
23 evidence, but the answers to those questions may, in fact, be  
24 evidence.

25 So we need to hear the answers to the question to know

1 whether there is any evidence.

2 You may continue.

3 MR. KELLHOFER: Thank you, Your Honor.

4 Q BY MR. KELLHOFER: And the investigation that you've  
5 mentioned and in that regard, what, what types of efforts have  
6 been made by the FBI?

7 A We have looked at the defendant's Facebook page. There's  
8 been surveillance conducted. We have also had contacts with  
9 confidential human sources or FBI informants, CHS. We have  
10 also employed an OCE, or an online covert employee, FBI  
11 employee.

12 Q All right. I'd like to go ahead and address those, more or  
13 less in that order, then.

14 You mentioned Facebook. What -- just very briefly, what is  
15 Facebook, please?

16 A Facebook is a social media website that a user can get on  
17 and create an account name, either their real name or a  
18 nickname. You can put posts on there. You can post videos,  
19 news articles. You can also make your own comments. In  
20 addition to that, you can utilize Facebook to talk to other  
21 Facebook users in the form of private messaging or chats going  
22 back and forth privately between user and user. And you can  
23 also use, Facebook can be done in a private setting where you  
24 can have privacy controls set so nobody can see your posts, or  
25 you can leave it open so anybody on the Internet with a

1 Facebook page can go on there and view your posts.

2 Q All right.

3 And in this instance you mentioned that part of your  
4 investigation was with regard to Facebook.

5 THE COURT: Excuse me.

6 May I see the defendant and the lawyers, prosecution and  
7 one of the lawyers for, the stand-by lawyers here, at the  
8 bench?

9 Mr. Goulian, I want you specifically up here.

10 I want the defendant up here, also.

11 (Bench conference on the record among defendant,  
12 Mr. Gilbert, and Mr. Goulian.)

13 THE COURT: Let me tell you how I view where we are  
14 now and give you an opportunity to go see a Judge, if you wish.

15 Mr. Kellhofer's asked what does that investigation include,  
16 which means the defendant is permitted to ask any question  
17 whatsoever about the investigation. You may interpose an  
18 objection based on national security, but with that broad open-  
19 ended question I thought it was the intention not to get into  
20 some of these areas.

21 But he's opened the door. I'm going to let him do whatever  
22 he wants inside that door and if you think I'm wrong in that  
23 now, now is the time to go see a Judge. I don't know how you  
24 can ask a question, "What does the investigation include," and  
25 then restrict the defendant's ability to probe the answer to

1 that question.

2 MR. GOULIAN: I understand, Your Honor.

3 THE COURT: So you go back down. You can go back down  
4 and you tell me now whether you want to go see a District  
5 Judge. 'Cause otherwise, we're going to go through all of  
6 this. I will not recess this. I will not stop and he will be  
7 allowed to ask any question, but you're not prepared to  
8 interpose a national security or other appropriate privilege.

9 MR. GOULIAN: Can I consult with Mr. Kellhofer?

10 THE COURT: You can do whatever you want.

11 MR. GOULIAN: Thank you.

12 (End of bench conference.)

13 (Mr. Gouliau confers with Mr. Kellhofer.)

14 MR. GOULIAN: All right. Can we approach?

15 THE COURT: Yes.

16 Mr. Gilbert and Mr. Sheikh, come back up.

17 (Bench conference on the record among defendant,  
18 Mr. Gilbert, and Mr. Gouliau.)

19 MR. GOULIAN: Your Honor, the, the intention here --  
20 and I don't recall the exact precise words --

21 THE COURT: I wrote them down: "What does that  
22 investigation include?" We can play the tape back if you want  
23 to hear the words.

24 I don't know why one would have to ask that question at a  
25 detention hearing to get at the evidence that was produced by

1 the investigation, but the question's been asked.

2 So he has an absolute right on cross-examination to probe  
3 that.

4 MR. GOULIAN: Well, Your Honor, we -- we're -- intend  
5 to object to anything, any cross-examination questions --

6 THE COURT: You can object as much as you want and  
7 unless you're prepared to say that it's a national security  
8 issue, that the matter is classified, or that there's a  
9 traditional privilege for informants, I'm going to --

10 MR. GOULIAN: Okay.

11 THE COURT: -- overrule your objection. And I wanted  
12 to tell you that now so that you can go get somebody else to  
13 look over my shoulder right now.

14 MR. GOULIAN: Okay.

15 THE COURT: Because once we go down this path, once  
16 you said, "We're going to go forward," you've already heard how  
17 I intend to proceed. And I didn't ask the question. I didn't  
18 ask, "What does that investigation include?"

19 MR. GOULIAN: All right, Your Honor. Well, we'll,  
20 we'll object as, as necessary.

21 THE COURT: That's fine.

22 (End of bench conference.)

23 THE COURT: Mr. Kellhofer, how many witnesses do you  
24 have?

25 MR. KELLHOFER: Just this one, Your Honor.

1           THE COURT: Okay. I just wanted to make sure that we  
2 get out of here -- we'll be able to do some of the morning  
3 calendar, also.

4           MR. KELLHOFER: Thank you, Your Honor. May I  
5 continue?

6           THE COURT: You may.

7 Q BY MR. KELLHOFER: Agent Maslow, you were stating the  
8 utilization of Facebook in this instance and are you aware --  
9 you stated that your investigation included Facebook.

10 Are you aware of Facebook use specifically by the  
11 defendant?

12 A Yes, I am.

13 Q And can you please tell me how so?

14 A Through Open Source, through looking at the Internet. You  
15 could see a Facebook page, Abdul Basit, or Abdul Basit --  
16 excuse me -- on the Internet and he would make postings on  
17 there. And that's how we would see the Facebook messages and  
18 comments.

19 Q And, and how are you able to determine that that Facebook  
20 page is this individual?

21 A Through the use of subpoenas. We can subpoena Facebook.  
22 Facebook will then provide us with login IP or Internet  
23 protocol addresses. We can take those IP addresses and go talk  
24 to the Internet service provider. Through a subpoena the  
25 Internet service provider -- in this case Time Warner Cable --

1 will tell us the subscriber address and user, that user's IP  
2 addresses that logged into Facebook, and on every occasion the  
3 IP addresses came back to user, Basit Sheikh, at 300 Swansboro  
4 Drive in Cary, North Carolina.

5 Q And have you confirmed that that is, in fact, the  
6 defendant's address?

7 A Yes, we have, through the North Carolina Department of  
8 Motor Vehicles records, listed the defendant as living at that  
9 address.

10 We also had law enforcement surveillance conducted to  
11 confirm that the defendant lived at that address.

12 And the defendant would also post pictures of himself on  
13 the Facebook page confirming he was the user and also list  
14 other biographical information such as a country he was from  
15 off the coast of Africa, Seychelles, studying at Western  
16 Kentucky University, and information of that nature.

17 Q All right.

18 And with regard to the Facebook information you stated that  
19 it could be public or private.

20 In this instance, what were you obtaining, public or  
21 private information?

22 A This was public information.

23 Q All right. And what type of information relevant to your  
24 investigation did you obtain?

25 A The posts on the Facebook page were violent in nature.

1 There are several posts that we had that pointed to violence in  
2 the form of executions, attacks, improvised explosive devices,  
3 things of that nature, statements --

4 MR. SHEIKH: I object, Your Honor.

5 THE COURT: Stand up and tell me what your objection  
6 is.

7 MR. SHEIKH: With the tool of -- the Face -- he  
8 mentioned what Facebook is and Facebook is a median where  
9 anyone can post whatever he wishes and with -- what the -- what  
10 the FBI witness is saying that I shared or the defendant, the  
11 defendant shared material which was related to a civil war  
12 going on in Syria.

13 THE COURT: I don't know that he said anything about  
14 Syria, a civil war, or shared. What he said was your Facebook  
15 page showed posts --

16 MR. SHEIKH: Right.

17 THE COURT: -- and that you were the person who logged  
18 in. So unless you have a different objection, your objection  
19 is overruled.

20 You may continue.

21 MR. KELLHOFER: Al right, sir.

22 Q BY MR. KELLHOFER: And with regard to the information that  
23 was being posted, what was -- what was being -- what was there  
24 -- or did you obtain anything relevant to your investigation?

25 A Yes, we did.



1 Q And --

2 A Statements --

3 Q And what would that include? Yeah.

4 A That would include post comments from articles and videos  
5 that the defendant would post on his Facebook page and then it  
6 would also include comments that the defendant would type above  
7 in relation to the article or the video that was posted on his  
8 page.

9 Q And this information with regard to the videos, what type,  
10 types of videos or photographs or comments were included,  
11 generally, please?

12 A Generally, statements supporting mujahideen, terrorist  
13 acts, terrorist groups fighting in Syria to establish Sharia  
14 law or Islamic law or a khalifa, an Islamic state in Syria,  
15 also known as al-Sham.

16 Q All right. You used a bunch of terms. Let me slow down  
17 just for a second.

18 There was information regarding mujahideen. Can you, can  
19 you please spell that and tell us what that is?

20 A Mujahideen is spelled M-U-J-A-H-I-D-E-E-N. And mujahideen  
21 is a term for an Islamic holy warrior.

22 Q All right.

23 Now the types of posts that you uncovered --

24 MR. KELLHOFER: May I approach, Your Honor?

25 THE COURT: You may.

1       If you have something you're going to show him, show them  
2 to the --

3       You've already got that?

4               MR. GILBERT: Yeah.

5               MR. KELLHOFER: I've previously provided the --

6               THE COURT: Thank you.

7               MR. KELLHOFER: -- defense with a copy of what was in  
8 the Grand Jury. It was 1 through 9, Your Honor. I have a  
9 working copy for yourself and I would like to hand a copy of  
10 that to the witness.

11       (Counsel provides document to the court and the witness.)

12 BY MR. KELLHOFER:

13 Q Sir, if you'd just review Grand Jury Exhibits 1 through 9,  
14 please.

15 A (Witness complies)

16 Q And, sir, just what are these?

17 A These are exhibits that were taken, copies of images that  
18 the defendant posted on his Facebook page, Abdul Basit.

19 Q All right. And is this an ex -- are these examples of the  
20 types of materials that you were previously talking about?

21 A Yes, they are.

22 Q All right. The postings from the defendant on this web  
23 page, did they refer to any specific groups?

24 A Yes, they did.

25 Q And what groups would that include?

1 A One group was specifically Jabhat al-Nusra.

2 Q And are you familiar with that group?

3 A I am.

4 Q And can you please inform the court anything that you're  
5 aware of with regard to that group?

6 A This group, Jabhat al-Nusra, and aliases, the Nusra Front,  
7 this group was designated by the United States Department of  
8 State as a foreign terrorist organization, or FTO, in  
9 approximately December of 2012. This group was linked with Al  
10 Qaeda in Iraq, AQI. AQI was also designated a foreign  
11 terrorist organization by the Department of State in  
12 approximately 2004.

13 The Jabhat al-Nusra was further described by the Department  
14 of State as an organization that claimed responsibility for  
15 over 600 attacks, for over 40 suicide attacks, including  
16 improvised explosive devices, killing numerous Syrian civilians  
17 with an end, end goal of trading a khalifa, or Islamic state  
18 under Sharia law in the country of Syria.

19 Q With regard to the Grand Jury Exhibit 1, can you just  
20 please tell us what that would be?

21 A This is a video that the defendant posted on his Facebook  
22 page and above the video is a sentence that the defendant typed  
23 in, himself.

24 Q All right. So this -- the investigation that you did with  
25 regard to his Facebook page are things that he posted as well

1 as specific comments by him, is that correct?

2 A That's correct.

3 Q With regard to this instance, what comment was made by the  
4 defendant?

5 A The comment he made was, "Qasas," which means equal  
6 retaliation. And also, the defendant posted, "The punishment  
7 of those who cause mischief in the land."

8 Q And are you familiar with the term "Qasas"?

9 A Yes.

10 Q And what does that mean?

11 A It means equal retaliation.

12 Q And this video that was posted, have you, has the video  
13 been viewed by the FBI?

14 A Yes, it has.

15 Q And what does it contain, please?

16 A This video shows individuals claiming to be with the  
17 organization, Jabhat al-Nusra, with ten individuals lined up,  
18 bound, on their knees, blindfolded, heads covered, and the  
19 individual claiming to be Jabhat al-Nusra says he sentenced  
20 them to death in the Jabhat al-Nusra court for their actions  
21 against Syrians and fighting with Bashar al-Assad.

22 And then the individual in the video proceeds to execute  
23 each of the individuals by shooting them at least once through  
24 the back of the head with a pistol.

25 Q Sir, if you could just very briefly with regard to the

1 following exhibits explain how these are relevant to the court.

2 And if you'd look, please take a look at Government Exhibit  
3 2.

4 THE COURT: Well, he can explain what he thinks they  
5 show. It's for me to determine relevance and I'm perfectly  
6 capable to do that without his assistance. You'll have an  
7 opportunity at argument to tell me what you think the relevance  
8 is.

9 MR. KELLHOFER: Very good, Your Honor.

10 Q BY MR. KELLHOFER: With regard to Grand Jury Exhibit 2,  
11 however, sir, could you please explain that -- what is this?

12 A This is a statement that the defendant posted on his  
13 Facebook page, along with a picture, a photograph of a green  
14 bird. And in the, within the statement itself towards the end  
15 it says, "By him and whose hand Muhammad's soul is. I love to  
16 fight in the way of Allah and get killed, to fight again and  
17 get killed, and to fight again and get killed," followed by the  
18 picture of the green bird.

19 Q All right.

20 And are you familiar with the use of the term "green bird?"

21 A Yes, I am.

22 Q And how so?

23 A Some people believe the, the Islamic prophet, Muhammad,  
24 equated the green bird photograph with being a martyr or dying  
25 shahid.

1 Q All right

2 In addition to these Facebook posts, which are, are public,  
3 correct?

4 A That's correct.

5 Q All right. You mentioned that your investigation included  
6 the use of a CHS?

7 A That's correct.

8 Q Could you please inform the court as to that, that CHS'  
9 involvement?

10 A Yes. The CHS had a Facebook page as well set up at the  
11 direction of the FBI. Similar types of posts, the Islamic  
12 extremism point of view are on this Facebook page. The  
13 defendant would reach out to this FBI CHS and comment on  
14 different posts and different things that that FBI CHS had on  
15 their Facebook page. A relationship ensued after the defendant  
16 made contact and the relationship developed into a close  
17 relationship and several times the defendant would tell the FBI  
18 CHS, you know, that he supported the mujahideen, he wanted to  
19 leave the United States, and of his interest in Syria.

20 Q And did the CHS have conversations with regard to, or with  
21 the defendant in regard to any travel having taken place?

22 A Yes, there was.

23 Q And what did that include?

24 A The defendant told the CHS that he had traveled to Turkey  
25 in October through November of 2012 and he wanted to go help

1 his Syrian brothers, but instead, he ended up with the Free  
2 Syrian Army, which he did not agree with, and they were  
3 interested in money.

4 So he returned home and he said he would return to Syria if  
5 it was with the "true brothers."

6 Q Was there any indication of what was meant by, with regard  
7 to the "true brothers"?

8 A Through their discussions it became clear that the true  
9 brothers the defendant supported were --

10 MR. SHEIKH: I object, Your Honor.

11 THE COURT: The basis of your objection?

12 MR. SHEIKH: He mentioned the true brothers. From the  
13 statement, the, with the statement of charges that were  
14 provided to me it states --

15 THE COURT: Well --

16 MR. SHEIKH: -- that --

17 THE COURT: -- the charges that are pending against  
18 you now are in the indictment. The affidavit is something  
19 related to the other charges. You're welcome to cross-examine  
20 him when your chance comes --

21 MR. SHEIKH: All right.

22 THE COURT: -- about what's in there, but I don't --

23 MR. SHEIKH: I'll cross-examine him.

24 THE COURT: Thank you.

25 You may continue, sir.

1 Q BY MR. KELLHOFER: You were stating with regard to the,  
2 based off of the conversations between the CHS and the  
3 defendant, the defendant's beliefs as to who true brothers  
4 were.

5 A Yes. Through the statements they made, the defendant did  
6 not agree with the FSA, the Free Syrian Army. Defendant stated  
7 he stood for the khalifa, the Islamic state, set up in Syria.

8 Q And is that the ideology that's also adhered to by the  
9 group you mentioned, al-Nusra?

10 A Yes, it is.

11 Q Was there any discussion about travel in the future?

12 A Yes, there was.

13 Q And what did that include, please?

14 A The defendant told the FBI CHS that he was traveling soon.  
15 It was a few days before he purchased the plane ticket in early  
16 September. And he stated that he wanted to go -- he was trying  
17 to get a hold, his contacts in Turkey, to get a hold of them to  
18 clear his path, to get a hold of his, his contacts, but he was  
19 not able to get a hold of his contacts. So he was not able to  
20 travel at that time.

21 MR. SHEIKH: I think it's -- I object. I think it  
22 referenced the word "friends," not --

23 THE COURT: Excuse, excuse me.

24 You can say, "I object."

25 MR. SHEIKH: I did.



1 THE COURT: And then I -- I didn't hear you.

2 MR. SHEIKH: I'm sorry.

3 THE COURT: Then I'll ask you, "What's your  
4 objection?"

5 MR. SHEIKH: I'm -- I'm --

6 THE COURT: That's when you get to talk.

7 MR. SHEIKH: I'm sorry. I did say, "Object."

8 I object. I think the statement says --

9 THE COURT: No, no. That's cross-examination.

10 MR. SHEIKH: All right.

11 THE COURT: If you, if you have a quarrel with what  
12 he's saying now as compared to what he may have said before --

13 MR. SHEIKH: Right.

14 THE COURT: -- you get to ask him that on cross-  
15 examination. You don't get to object and say, "Didn't you say  
16 this?" That's for later.

17 MR. SHEIKH: I apologize.

18 Q BY MR. KELLHOFER: Regarding these discussions between the  
19 CHS and the defendant, was there any indication of what he  
20 would be doing should he travel overseas?

21 A The defendant had stated that he had got a job with the  
22 Brigade and he wanted to work in logistics field.

23 Q Was there -- are you familiar with the term "shahid"?

24 A Yes, I am.

25 Q And what does that mean, please?

1 A "Shahid" means to die a martyr for your cause. And the  
2 defendant had made those statements to the CHS that if he died  
3 on a mountain he would be shahid.

4 Q And was that in regard to his, his travel overseas?

5 A Yes, it was.

6 Q All right.

7 Now you'd mentioned the additional use of an OCE. Could  
8 you please inform the court as to the circumstances of the use  
9 of the OCE in this investigation?

10 A Yes. The OCE is an online covert employee. It is an FBI  
11 employee on the Internet and in this instance, given the  
12 defendant's statements made to the FBI CHS, the CHS provided  
13 contact information through Skype to contact who the CHS said  
14 was a trusted brother with Jabhat al-Nusra who could help the  
15 defendant.

16 Q And to be clear, with regard to the initial contact between  
17 the CHS and the defendant, who contacted who?

18 A The defendant contacted the CHS.

19 Q All right.

20 Now with regard to the OCE and the defendant, who contacted  
21 who?

22 A The defendant contacted the OCE.

23 Q All right. And did he inform the OCE as to why he was  
24 contacting the OCE?

25 A Yes. He informed him of his intentions, his support of the

1 group, Jabhat al-Nusra. They're -- the -- he was aware that  
2 they were the most disciplined group fighting in Syria at the  
3 time.

4 Q All right.

5 Was there any indication that the defendant was also aware  
6 that Jabhat al-Nusra, or al-Nusra, was a designated terrorist,  
7 designated foreign terrorist organization?

8 A Yes, there was. There were several postings on his  
9 Facebook page that specifically stated that Jabhat al-Nusra had  
10 been designated a foreign terrorist organization by the United  
11 States Department of State.

12 Q During the conversations between the OCE and the defendant  
13 was his, his purpose or intent in traveling discussed?

14 A Yes, it was.

15 Q And could you please inform us of that?

16 A The defendant was given the opportunity. The OCE said,  
17 "What do you want to do? What are your intentions?" And the  
18 defendant made statements that he wanted to "help support the  
19 brothers, logistics, fight, God willing."

20 Q With regard to these desires, has your investigation  
21 uncovered any actual activity by the defendant in that regard?

22 A As far as traveling?

23 Q As far as the statements that he's had with the CHS and the  
24 OCE about traveling overseas and specifically with regard to  
25 traveling with regard to Jabhat al-Nusra.

1 A Yes. The OCE made it clear that he was with the group,  
2 Jabhat al-Nusra. He was not with the Free Syrian Army. The  
3 defendant stated that's what he wanted. He wanted, he  
4 represented the khalifa. He did not want any of the groups  
5 that were fighting in regards to a -- defendant had posted a  
6 nationalist brain washing to just replace Bashar al-Assad with  
7 another ruler or president. The defendant wanted the khalifa.

8 And so he agreed with the OCE when the OCE said, "This is  
9 the group I'm with. It's Jabhat al-Nusra. We're moving men  
10 from Lebanon into Syria to fight. And you come to Lebanon and  
11 we'll get you here and we'll move you into Syria and get you  
12 with Jabhat al-Nusra to fight."

13 Q Did the defendant make any efforts to accomplish,  
14 accomplish that?

15 A Yes. The defendant talked about selling his vehicle to get  
16 the money to purchase the plane ticket and defendant also got a  
17 new credit card and used that new credit card to purchase his  
18 plane ticket.

19 Q And did he, in fact, attempt to travel?

20 A Yes, he did. On November 2nd, the defendant showed up at  
21 Raleigh-Durham International Airport. He proceeded to the gate  
22 to check in. He checked one bag of luggage. He received his  
23 boarding pass, then proceeded through the Transportation  
24 Security Administration, the TSA, security clearance checkpoint  
25 for initial screening. He received his secondary screening and

1 once he cleared secondary screening he was free to go to the  
2 gate to get on the airplane at which point he was secured,  
3 approached by law enforcement and detained.

4 Q Thank you.

5 MR. KELLHOFER: I have no further questions.

6 THE COURT: You may cross-examine.

7 MR. SHEIKH: All right.

8 CROSS-EXAMINATION

9 BY MR. SHEIKH:

10 Q Thank you, Agent Maslow.

11 You mentioned about the defendant having several accounts.  
12 Were there more -- only -- from the list I have, it says that  
13 the defendant had seven accounts.

14 Were there any more than seven accounts?

15 A From what I'm aware of at this time, there were seven to  
16 that period of the investigation.

17 Q From -- it says the defendant had less -- there's a list  
18 of, list starts of account starting 2012.

19 From my understanding, defendant has had a Facebook account  
20 prior to the, prior to 2006 as well.

21 Why -- why have -- why haven't those accounts been listed  
22 on the account?

23 A It could be that the investigation wasn't started at that  
24 time or could be Facebook didn't maintain those records or --

25 Q I think Facebook --

1 THE COURT: Excuse me.

2 You're going to let him answer the question.

3 MR. SHEIKH: Okay.

4 THE WITNESS: Sometimes Facebook shuts pages down,  
5 which I think was in your case the Facebook pages kept getting  
6 shut down by Facebook, and then new accounts would be reopened.

7 Q BY MR. SHEIKH: All right. And you mentioned the  
8 defendant's as Facebook pages, not as Facebook accounts.

9 So could you define the difference?

10 A The term "Facebook page" or "Facebook account" could be  
11 interchangeable. In your case, there, the seven Facebook pages  
12 we're discussing, the first, I believe, six of them, it would  
13 be a different account, a different unique identification  
14 number given to that account by Facebook, but you could also  
15 use the same name, Abdul Basit, but it'll be a different  
16 account number.

17 MR. SHEIKH: I'd like to have ITNS --

18 THE COURT: Excuse me.

19 MR. SHEIKH: I'm sorry.

20 THE COURT: Stand up if you're going to talk.

21 MR. SHEIKH: I'm sorry, Your Honor.

22 With regards to the defendant saying the word "Facebook  
23 page" and "Facebook account" are interchangeable, I'd like to  
24 disagree on that regard.

25 THE COURT: That's not an issue. He's using the terms

1 interchangeably. You --

2 MR. SHEIKH: But -- but --

3 THE COURT: -- asked --

4 Excuse me.

5 MR. SHEIKH: I'm sorry.

6 THE COURT: You asked him about that. That's his  
7 understanding.

8 MR. SHEIKH: Right.

9 THE COURT: It doesn't have to be a fact. It doesn't  
10 even have to be true.

11 MR. SHEIKH: Okay.

12 THE COURT: That's just what he understands.  
13 You can sit back down.

14 MR. SHEIKH: I'd like to continue questioning.

15 THE COURT: I'm sorry?

16 MR. SHEIKH: I'd like to continue questioning.

17 THE COURT: Just sit down and ask the questions.

18 Q BY MR. SHEIKH: Do you know when was the first account  
19 created by Abdul Basit in, on Facebook?

20 A I don't have the exact dates memorized at this time.

21 Q All right. And -- and the -- and the identity that Basit  
22 reveals on his account from what I'm seeing are consistent.  
23 Every time the defendant has used the same name and the same  
24 address and the same IP address, is that correct?

25 A The, the way IP addresses work, the IP address will be

1 assigned by the Internet service provider, Time Warner Cable.

2 Q Uh-huh (indicating an affirmative response).

3 A So those IP addresses will change. It's call dynamic.

4 Q Uh-huh (indicating an affirmative response).

5 A But Time Warner Cable will have records to show which one  
6 of its subscribers used specific IP addresses at a very  
7 specific date and time.

8 So that's how the IP -- the IP address will be owned by  
9 Time Warner Cable --

10 Q Right.

11 A -- a certain number of them.

12 Q And they have been consistent with the same individual,  
13 which is linked to the defendant?

14 A That's correct.

15 Q Right. And goes to show the number listed by, by the  
16 defendant on Facebook and the information provided as to where  
17 he lives and where he studies as consistent, consistent in  
18 regards to what, what the defendant, where the defendant lives  
19 or what his phone number actually is, are, are actually  
20 genuine, not, not fake or, or a forged identity?

21 A The, the information on the Facebook pages would state the  
22 user lived in Cary, North Carolina.

23 Q Is that consistent with your records as to where the  
24 defendant lives?

25 A Yes. You live in Cary, North Carolina.



1 Q Right. And, and his telephone number, too, right?

2 A Yes.

3 Q Right.

4 Moving on to Chapter, Point 17 as to the defendant living  
5 abroad in Seychelles and as the Immigration Alien File displays  
6 that the defendant did live abroad in Seychelles, is that  
7 consistent with your, with your --

8 A That's -- the document that I saw that, that you had filled  
9 out listed that you had lived in the Country of Seychelles. I  
10 believe it was 1992 to 2000 time frame.

11 Q All right.

12 MR. SHEIKH: Let Your Honor note that --

13 THE COURT: Excuse me.

14 If you're going to speak to me --

15 MR. SHEIKH: I'm sorry.

16 THE COURT: -- you're going to stand.

17 MR. SHEIKH: Sure. I'm sorry.

18 Let Your Honor know that the, that the, the documents is  
19 similar, that the statement, Your Honor, as stated as, by the  
20 defendant's father and, and as listed on Facebook are, and as  
21 to where he lived, are in consistent and harmony as to --

22 THE COURT: That may well be true.

23 MR. SHEIKH: Right.

24 THE COURT: That's not an objection.

25 MR. SHEIKH: Right.

1 THE COURT: You'll get a chance at the end, as will  
2 the Government, to argue what things that have been testified  
3 to you and they think I ought to focus on.

4 MR. SHEIKH: Right.

5 THE COURT: This is not that time.

6 MR. SHEIKH: Right. I'll move on with the question.

7 Q BY MR. SHEIKH: Coming on to, moving to April, August 2017  
8 [sic] Facebook activity of Basit where you, point states that,  
9 "Facebook page Abdul Basit contain a recently added Friend list  
10 and among them on the list was a Facebook page, Jabhat al-  
11 Nusra. A separate review shows that Jabhat Nusra, a page that  
12 was later removed."

13 Was that page or account attributed to, to an individual or  
14 an organization, or it could have been created by any person  
15 who uses Facebook?

16 A We did not verify the user of that account.

17 Q You did not. All right.

18 Point 25 as stated on, "Basit posted a picture of a man  
19 holding a machine gun with link ammo draped over his shoulder.  
20 The description shows many are those and have chosen to live in  
21 order to die, but I've chosen to die in order to live with the  
22 listed author statement as Shahid Abdul Ahad."

23 So my question was, what's, what's this trying to imply  
24 with -- since Face -- on Facebook any person can share, share  
25 any, any, any documents. So if the defendant was sharing,

1 sharing a picture of, of an individual who had died during a  
2 civil war in Syria, so doesn't that make a shahid? If shahid  
3 is a person who dies in God, during a civil war or conflict,  
4 he's termed as a -- if someone is defending his property or his  
5 bond or is killed unjustly, he's defined as a shahid.

6 MR. SHEIKH: So I think the term or Islamic  
7 terminologies used to, used to address here if -- I will like  
8 to call a witness --

9 THE COURT: You'll get to call a witness. After the  
10 Government's finishes its case --

11 MR. SHEIKH: Right.

12 THE COURT: -- you'll get to call whomever you want.

13 MR. SHEIKH: All right. -- to define these  
14 terminologies for the --

15 Q BY MR. SHEIKH: So -- and you -- can you attribute that the  
16 shahid was, was labeled, was a historical figure, Abdul Ahad,  
17 who establishes Islamic state? How is that related --

18 THE COURT: I'm sorry. He did not testify to that.

19 MR. SHEIKH: But this is in the charges.

20 THE COURT: It may, it may well be in there.

21 Cross-examination is limited to questions that arise on  
22 direct examination.

23 MR. SHEIKH: Right.

24 THE COURT: You've got the material information and  
25 I've given you a lot of latitude because there's a --

1 MR. SHEIKH: I --

2 THE COURT: Excuse me. I'm going to finish.

3 There's a lot of overlap between what's in the affidavit  
4 and what he's testified to, but you just can't take something  
5 out of an affidavit that's never been testified to and call it  
6 cross-examination.

7 MR. SHEIKH: Mr. Maslow pointed out like, about Syria,  
8 like how there is a civil war going on in Syria and as to  
9 regards how many different groups there are who are fighting  
10 for various causes.

11 How -- how does Mr. Maslow -- Mr. Maslow accused the  
12 defendant of saying that the defendant traveled overseas to  
13 Turkey to --

14 THE COURT: Mr. Maslow, Special Agent Maslow --

15 MR. SHEIKH: Your Honor -- I'm sorry.

16 THE COURT: -- didn't accuse the defendant of  
17 anything.

18 MR. SHEIKH: Right.

19 THE COURT: He simply talked about --

20 MR. SHEIKH: Right.

21 THE COURT: -- what his investigation has shown to  
22 date.

23 MR. SHEIKH: Right.

24 THE COURT: Now you can ask him what's the basis for  
25 that. You can ask him --

1 MR. SHEIKH: Okay.

2 THE COURT: -- a lot of things, but you can't --

3 MR. SHEIKH: Right.

4 THE COURT: -- mischaracterize --

5 MR. SHEIKH: Right.

6 THE COURT: -- what he's testified to.

7 MR. SHEIKH: Mr. Maslow stated that the defendant  
8 traveled to Turkey in order to help Syrian refugees who, who  
9 may have been related to FSA or -- but is there any supporting  
10 evidence that he has to show that those, the people that, that  
11 the defendant actually helped were actually Syrians? Because  
12 right now in Syria I'm sure not even the State Department or  
13 the Congress or the Intelligence community knows who --

14 THE COURT: Your objection is sustained.

15 MR. SHEIKH: -- who is --

16 THE COURT: Mr. Kellhofer just objected to you  
17 continuing to make statements. The way lawyers operate in  
18 every court is they ask questions. They allow the witness to  
19 answer the questions, then they ask another question.

20 MR. SHEIKH: Okay.

21 THE COURT: At the appropriate time you can make any  
22 argument you want, but this is not that time.

23 MR. SHEIKH: Right.

24 Q BY MR. SHEIKH: Can the defendant travel outside the United  
25 States without a passport?

1 A No.

2 Q Do you have any evidence that I as a defendant harmed  
3 anybody, or do you have --

4 (Mr. Sheikh confers with stand-by counsel.)

5 Q BY MR. SHEIKH: You mentioned about sources, OCH [sic] and  
6 the, and the contact that the defendant had and the, the  
7 contact that the defendant had with this.

8 Well, from the, from the affidavit only brief scrips have  
9 been posted as to what the defendant actually said or might  
10 have said. What -- can -- is there a full transcript as to the  
11 whole conversation as to what, what the, what the defendant  
12 said or what his motive for traveling overseas might have been?

13 THE COURT: Those are two questions. I'm going to ask  
14 that he answer the first question.

15 Are there any full transcripts?

16 THE WITNESS: Yes, there are full transcripts. The  
17 FBI has records of, of your conversations with the OCE.

18 Q BY MR. SHEIKH: Would -- would there be made --

19 THE COURT: Excuse me. Let me get the second question  
20 you asked.

21 Do you have any information about his motives in talking to  
22 the OCE?

23 THE WITNESS: Yes. As we previously discussed your  
24 motives, to join the Jabhat al-Nusra group to help them, help  
25 the mujahideen in any way that, that you could in logistics or

1 even fight, too, "God willing," as you had stated.

2 Q BY MR. SHEIKH: Who is CHS as to who the defendant was  
3 talking?

4 MR. KELLHOFER: I'll object to that, Your Honor. At  
5 this --

6 THE COURT: What's the basis for your objection?

7 MR. KELLHOFER: At this point, first of all, that it's  
8 not relevant, Your Honor. We're basing this off -- the  
9 testimony is regarding the statements of the defendant.

10 THE COURT: Well --

11 MR. KELLHOFER: The, the informant's privilege as  
12 well, the confidential human source, Your Honor --

13 THE COURT: I think --

14 MR. KELLHOFER: -- at this, at this proceeding.

15 THE COURT: I think you're on much firmer ground with  
16 the traditional informant's privilege than you are on something  
17 about some relevance. But for the privilege, I would consider  
18 it relevant.

19 MR. KELLHOFER: Understood. Thank you.

20 THE COURT: The objection is sustained.

21 MR. SHEIKH: Thank you, Your Honor.

22 Q BY MR. SHEIKH: The -- on Page 16 on the affidavit it says  
23 that, "The FBI had a confidential source who used Facebook  
24 which promoted ideology of Islamic extremism." So -- "and  
25 Basit often provided comments and postings by CHS, sought a

1 relationship with CHS. The CHS maintained an online friendship  
2 with Basit. During this discussion Basit stated his desire to  
3 leave the United States and his approval of the mujahideen and  
4 any trust in Syria."

5 MR. KELLHOFER: Your Honor, I'll object to beyond the  
6 scope.

7 THE COURT: Actually, it's not. I mean, you elicited  
8 through this witness testimony on this issue about the  
9 conversations between the CHS and the OCE either in writing or  
10 orally through Skype. I'm going to allow him the same latitude  
11 to talk about it. I -- I -- he's not asked the question yet.  
12 He just read from the affidavit and --

13 MR. KELLHOFER: And I spoke -- I apologize, Your  
14 Honor. I would ask that -- I -- beyond the scope in terms if  
15 he's asking him as to the affidavit as opposed to his  
16 testimony.

17 THE COURT: Well, he testified about that.

18 MR. KELLHOFER: Understood, Your Honor. Thank you.

19 THE COURT: And you -- but you got to ask a question.

20 MR. SHEIKH: Yes, sir.

21 THE COURT: You can't --

22 MR. SHEIKH: Yes, sir.

23 THE COURT: -- read the affidavit and say, "This is  
24 what the affidavit says."

25 MR. SHEIKH: Yeah. I'm coming to the question, but I



1 wanted to read it out of the affidavit and then I wanted to  
2 come to my question.

3 THE COURT: Well, the way we do that is you ask your  
4 question. If he doesn't know what you're talking about, then  
5 you can show him or have the stand-by lawyer show him to  
6 refresh his recollection, but --

7 MR. SHEIKH: Right.

8 Q BY MR. SHEIKH: According to the -- it said the defendant  
9 wanted to help manage medical supplies and help injured, and  
10 the people who are suffering. As you said, there is a civil  
11 war going on in Syria. The defendant wanted to help them and  
12 you said the defendant sought to seek a relationship.

13 Was the defendant in a romantic relationship or wanted to  
14 marry the defendant, or the confidential source, CHS?

15 A The -- several questions. I guess the --

16 THE COURT: Let's just start with the question.

17 Was the defendant seeking a romantic relationship with  
18 either the CHS or the OCE?

19 THE WITNESS: That would be, I guess, dependent on the  
20 CHS, their viewpoint. If it was romantic --

21 Q BY MR. SHEIKH: I thought you said --

22 A -- different.

23 THE COURT: No. He's asking you about your use of the  
24 word "relationship," which he apparently believes is limited to  
25 a particular type of relationship as opposed to a camaraderie

1 or a business relationship, or whatever. And in the context of  
2 these exchanges was the relationship you referred to one of  
3 romance or one of ideological sympathy?

4 THE WITNESS: The -- I would say that the relationship  
5 started based off of the similar ideology and as time  
6 progressed they got close in their relationship based off of  
7 just the way they talked with each other while, while sharing  
8 different or the similar same beliefs and the defendant's  
9 desire to travel to Syria to join these groups, which was where  
10 the CHS was at the time.

11 Q BY MR. SHEIKH: Did the defendant ever show interest in  
12 marrying this confidential source, CHS?

13 A I'm not aware of any. Towards the end, there may have  
14 been. Towards the beginning on some of the initial contacts an  
15 interest on your behalf to get married. I'm not exactly sure.  
16 There may have been.

17 Q There may have been.

18 A Yes.

19 Q Did -- did the C -- did the CHS agree to marrying the  
20 defendant?

21 A Not that I'm aware of.

22 MR. SHEIKH: Would the copy of the full transcript of  
23 the conversation between CHS and the defendant be provided to  
24 the defendant and the prosecution?

25 THE COURT: I'm sure the prosecution has it and --

1 MR. SHEIKH: I haven't --

2 THE COURT: -- there are time frames in which what's  
3 called discovery is required to be provided. Discovery is not  
4 required to be provided at this time. You will eventually get  
5 it, but this is not the time to get it.

6 MR. SHEIKH: I feel --

7 Should I stand up?

8 THE COURT: You may stand up.

9 MR. SHEIKH: I feel like it is imperative that the  
10 full transcript for -- for the -- for, for the discovery be  
11 made so that the full nature of the relationship between CHS  
12 and the defendant can be known so that the defendant's true  
13 motive of traveling overseas can be determined as to why he  
14 wants to --

15 THE COURT: Well, let's assume the transcript were to  
16 show that you indicated you wanted to marry the CHS and she  
17 indicated or he indicated he wanted to do that, also. I don't  
18 know how that would change anything about the other testimony  
19 about your stated purpose of becoming a martyr and -- excuse me  
20 -- and some of the other reasons that are stated.

21 There's a theory in the law on mixed motive where it's not  
22 just one motive, but there are a series of motives.

23 MR. SHEIKH: Right.

24 THE COURT: And I don't know how I can sort out, or  
25 whether I would even need to sort out. You know, Bonnie and

1 Clyde were lovers. It didn't matter that, to the fact that  
2 they robbed banks. It just --

3 MR. SHEIKH: Is -- so is it -- is it wrong to have  
4 mixed motive to marry someone who was helping --

5 THE COURT: No. You're not charged with wanting to  
6 marry somebody that you believe worked for a terrorist  
7 organization. You're being charged with providing material  
8 support to a foreign terrorist organization. The testimony has  
9 been from Special Agent Maslow that you had posts showing that  
10 this organization was a foreign, was designated by the State  
11 Department as a foreign terrorist -- in fact, two of them were  
12 -- foreign terrorist organizations and, two, that you posted  
13 that you wanted to help or join or support.

14 MR. SHEIKH: Yeah. I'd like to continue questioning  
15 regarding --

16 THE COURT: I'm not going to stop you from  
17 questioning, but I'm not going to --

18 MR. SHEIKH: Okay.

19 THE COURT: -- order the Government to do something  
20 they're not required to do --

21 MR. SHEIKH: Right.

22 THE COURT: -- just because you have some belief that  
23 this person was in love with you, or you were in love with  
24 them.

25 You can have a seat.

1 Q BY MR. SHEIKH: My question, was, was the CHS ever defined  
2 what her profession was or where she was or what she did?

3 A I believe the CHS, it was a female persona online and her  
4 profession was, in Syria, as a nurse.

5 Q What did she do?

6 THE COURT: Now are you asking what did she say she  
7 did in the persona --

8 MR. SHEIKH: Persona.

9 THE COURT: -- or are you asking what, in fact, does  
10 she do?

11 MR. SHEIKH: What, in fact, does she do and where  
12 did --

13 THE COURT: That's -- I've already sustained an  
14 objection to information about the true identity of these  
15 informants, or these -- I'm not sure you call them "informants"  
16 if they're employees, so I'm not.

17 MR. SHEIKH: Uh-huh (indicating an affirmative  
18 response).

19 THE COURT: But the objection is still in existence  
20 and the -- I've sustained the objection and you can't inquire  
21 as to the identity or factors that would contribute to  
22 identifying this person, or persons. It may be more than one  
23 person. I don't know.

24 (Pause)

25 Q BY MR. SHEIKH: You asserted that Jabhat Nusra that, the

1 group that you're -- that was affiliated -- that the defendant  
2 claimed to join is affiliated to a terrorist organization,  
3 deemed a terrorist organization deemed by the United States  
4 Government, and you said the defendant knew, that he was aware  
5 of the group being, being a designated terrorist organization.

6 Is there -- from, from the affidavit it supports that, that  
7 the defendant posted a, a post which, which had stated or  
8 denied the annulment or -- or -- or -- or the designation of  
9 Jabhat Nusra as a part of, of, of Al Qaeda or, or a terrorist  
10 organization where there are several different, 1,000 brigades  
11 fighting in Syria and even the State Department or Intelligence  
12 community or the Obama administration is unsure as to who, who  
13 the loyalties are and who, who actually is a --

14 THE COURT: Let's get to the question fairly quickly.

15 MR. SHEIKH: That the defendant --

16 THE COURT: No, no. You -- he's here to answer your  
17 questions.

18 MR. SHEIKH: The question is --

19 THE COURT: We'll all at a later time listen to your  
20 speeches, but right now --

21 Q BY MR. SHEIKH: The question is that the defendant posted a  
22 statement from, reposted a statement from CHS denying the --  
23 okay.

24 MR. SHEIKH: I'd like to move on to the --

25 THE COURT: You're --

1 MR. SHEIKH: -- to my next --

2 THE COURT: You're in the driver's seat. You can move  
3 where you want to move.

4 MR. SHEIKH: I'd like to move on to the next question.

5 Q BY MR. SHEIKH: Like regarding the green bird statement  
6 that -- that the -- Mr. Maslow --

7 THE COURT: That's truly not going to be relevant.

8 MR. SHEIKH: Yeah, I think it's not relevant --

9 THE COURT: Special Agent Maslow testified that, about  
10 a photograph --

11 MR. SHEIKH: Yes.

12 THE COURT: -- and seemingly linked it to the prophet,  
13 Muhammad --

14 MR. SHEIKH: Yeah.

15 THE COURT: -- which, at which point you laughed  
16 'cause you know Special Agent Maslow knows that one photograph  
17 is in existence at the time. But what the bird symbolizes or  
18 not was not harmful to your case.

19 So I'm going to rule that to be irrelevant.

20 MR. SHEIKH: Thank you, Your Honor.

21 Q BY MR. SHEIKH: And --

22 (Mr. Sheikh confers with stand-by counsel.)

23 THE COURT: Yes, sir?

24 MR. SHEIKH: May I continue questioning?

25 THE COURT: You're not stopped.

1 Q BY MR. SHEIKH: Do you have any evidence that I ever have  
2 harmed anybody or, at all considering, within the United  
3 States, that I have no criminal history within the United  
4 States or -- and you have my passport.

5 So is there any credibility that I, if I were to be  
6 released on bail that I would harm anybody or try to flee the  
7 country?

8 THE COURT: Well, let's, let's do those separately.

9 Is there any evidence that he's actually harmed anybody?

10 THE WITNESS: No, there's not.

11 THE COURT: And -- well.

12 MR. SHEIKH: And he --

13 THE COURT: The, the second question, I can tell you  
14 what the answer to the second question is. It's hard to  
15 believe that it's harder to get out of this country than the 14  
16 million illegal aliens in the country found it to get in.

17 So whether -- passport or not, his opinion as to whether or  
18 not your passport being in their possession would prohibit you  
19 from leaving doesn't mean anything. I understand that if one  
20 can sneak into a country where people are looking for people to  
21 sneak in in numbers in the millions, then anybody could sneak  
22 out where very few people are looking.

23 So you don't, you don't have to answer that question.

24 (Pause)

25 MR. SHEIKH: I think that's all, Your Honor, for now,



1 but --

2 THE COURT: Thank you.

3 Do you have any redirect?

4 MR. KELLHOFER: No, Your Honor.

5 THE COURT: Thank you.

6 You may step down. Thank you very much.

7 Do you have any other witnesses you intend to call?

8 MR. KELLHOFER: No, sir.

9 THE COURT: The Government has no further evidence.

10 You had mentioned, Mr. Sheikh, that you had witnesses you  
11 wanted to have testify?

12 MR. SHEIKH: Yes. Yes, sir.

13 I'd like to put my mom on the stand, please.

14 THE COURT: Ma'am, if you'd come forward. Yes,  
15 please. Thank you.

16 (Ms. Rehana Javed complies.)

17 \* \* \*

18 THE COURTROOM DEPUTY: Raise your right hand and state  
19 your name for the court, please.

20 MS. SHEIKH: Please --

21 THE COURTROOM DEPUTY: State your name for the court,  
22 please.

23 MS. SHEIKH: Rehana Javed.

24 REHANA JAVED, DEFENDANT'S WITNESS, AFFIRMED

25 THE COURTROOM DEPUTY: Thank you.

\* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: I'm sorry.

MR. SHEIKH: Does the prosecution want to go first?

THE COURT: No. You get to ask questions.

MR. SHEIKH: I go first. Okay.

THE COURT: And if they have questions, they get to ask them.

DIRECT EXAMINATION

BY MR. SHEIKH:

Q My question is, how, how long have you known your son, or the defendant?

A Excuse me?

Q How long have you known --

A Since when you born.

Q Okay. Thanks.

So are you married?

A Yes.

Q Have you -- how long have you been married?

A Thirty years, almost.

Q And how many kids did you have?

A Four.

Q Could you name them and --

A One boy, Basit Javed Sheikh, and three girls, Misbah Javed, and Sylvia Javed and Sara Javed. Thanks.

Q And do you live happily with your family?

1 A Yes. I'm living happily with my family.

2 Q Did the defendant grow up with you -- has the defendant  
3 been with you always and grown up -- was the defendant -- does  
4 the defendant live with you?

5 A "Defendant" mean?

6 Q Me.

7 A Yes. He was living with me, Basit Javed. That's right.

8 Q How would you define the defendant's personality and --

9 A Yeah. A little problem. This is nothing. This case is  
10 nothing. I feel since last year that he's in a kind of  
11 depression and a kind of anxiety because of he wouldn't finish  
12 his studies and he couldn't do job. He sit all the time  
13 computer and these all are his (indiscernible). Nothing is  
14 that. He's not a criminal and he's nothing. Nothing is that.  
15 He's just thinking like that. He do -- and he never finishes  
16 anything. He couldn't stay on any job and what he's saying,  
17 even. He change his mind all the time. "I'm doing this. I'm  
18 doing that. I'm this."

19 He doesn't have any contacts with anyone and he's not doing  
20 anything. He's in anxiety. So many times I said him to go to  
21 the psychiatrist and go to the doctor. "You are not well," but  
22 he said, "I'm okay. I'm okay." He don't want to listen his  
23 father, his mother. He has some problems and I was talking to  
24 my sisters and some of my family members to, "Let's talk to  
25 Basit, that he's not doing good." He's in anxiety. He's in a

1 depression. He's nothing. He's not doing anything. He's  
2 fine. He don't have any contacts. He doesn't have any. He  
3 had some problem, medical problem. He needs some treatment, I  
4 think.

5 THE COURT: Thank you.

6 Ask your next question.

7 Q BY MR. SHEIKH: So --

8 THE WITNESS: Yeah.

9 Q BY MR. SHEIKH: Next question: Is your, is your son an  
10 active member in the community and --

11 A Yeah, everybody knows you are a perfect guy. You goes to a  
12 mosque and you have good friends and you have good contact with  
13 the neighbors. Everyone says you are a good with neighbors and  
14 some say --

15 Q And would your friends and neighbors and family testify to  
16 that?

17 A Everyone is good, says you are good.

18 Q And --

19 A Your behavior, your character, everything is good, but you  
20 are not staying on your -- you're not concentrating on your  
21 career and your studies and you slip your line and you're just  
22 sitting on a computer and doing that, just talking. Nothing is  
23 in a practical, nothing is practical, just talking. Really, he  
24 has anxiety and depression.

25 Q Okay.

1 A So he -- I was seriously thinking about his treatment.

2 Q All right.

3 A He needs some treatment. I don't know where's the problem.

4 Q Has -- what -- did the defendant tell you where, what he  
5 wanted to do and help people and, and get married?

6 A About your --

7 Q About getting married and about helping people --

8 A Yeah.

9 Q -- overseas?

10 A Yes.

11 Q And has he helped other people overseas?

12 A Yes. Yes. That's good. That's true. You did help  
13 everyone.

14 Q And did the defendant travel to Turkey in --

15 A Yes.

16 Q -- in, in 2000 --

17 A Yes, he did all this.

18 Q -- 2012 --

19 A Yeah, that's true.

20 Q -- to help --

21 A You go to there just for help.

22 Q Just for help?

23 A Not for any intention. You don't have any bad intention.

24 Q Has the --

25 A Always you have a good intention and I don't know what you

1 was doing behind and there is no --

2 Q Has the defendant ever lied to you, or does he always -- is  
3 he always honest or has he ever lied to you about --

4 A No, always honest. You told me that you are honest.

5 Q Do you --

6 A And I don't know.

7 Q Do you always believe that your son is always honest?

8 A Always honest. Always honest, yeah.

9 Q All right.

10 A But sometimes I told him that, "You're not practically  
11 think good. It's not possible what you are saying. So you  
12 have to do practical things."

13 Q Like you said, the defendant was -- the defendant was sick  
14 and as the father before testified, that the defendant was sick  
15 post, post 2011 to --

16 A Yeah. I don't know what he was doing on Facebook, but not  
17 in my --

18 Q And --

19 A -- knowledge.

20 (Pause)

21 Q BY MR. SHEIKH: Do you think that -- do you think the  
22 defendant would, if he were to be released on probation, would  
23 he be a better son and provide, and help with your family and  
24 not flee the country?

25 A Yes, you are. We are thinking seriously about that if you

1 leave him on a probation. So we'll work on him and he would be  
2 a good person. He would not leave the country and we'll focus  
3 on his future, his studies, and his treatment. We'll focus on  
4 it.

5 Q And would you get him better?

6 A Yes, everything.

7 Q Okay.

8 A You need to serious now, first off.

9 Q How many -- do you have any other relatives here? And how  
10 -- how -- how many and what are their --

11 A Yes, we have so many relatives. My all -- five, four  
12 brothers are here and sisters are here. My one sister is here  
13 from Florida and she's living here since 40 years. She  
14 sponsored us and we have some brothers and sisters here in  
15 North Carolina. They all are good with us and Basit is good  
16 with them, a good relation. He doesn't have any problem if he  
17 focus on his studies, on his work. He should work some.

18 Q Do you think -- when was the last defendant that -- when  
19 were the last time defendant worked?

20 A You?

21 Q When was the last time defendant --

22 A The last time, I don't know what you did, the work --

23 Q I worked for the school --

24 A -- last. Yeah. Since long time he's --

25 Q Has worked, but was it --

1 A 'Cause he don't want to listen to anything.

2 Q No. Was it because of the sickness, or was it because of  
3 other --

4 A Because of sickness. Because you are physically sick and  
5 mentally, you have little psycho problem, I feel that. So I  
6 was seriously thinking about that. You need to, treatment.  
7 You don't know that, what you are doing. 'Cause you don't  
8 feel.

9 Q Did it --

10 A You feel that you are doing good, but you are not doing  
11 good.

12 Q Do -- how -- did you monitor Basit's health? Do you think  
13 he is unstable at times and, and can --

14 A Yes, I feel so many times that you are unstable.

15 Q And how did you --

16 A I was seriously talking to my other sister.

17 Q How did you try to cope with the defendant's health issues?  
18 How did you try to address them?

19 A Physically, all the time you feel bad health. You said you  
20 cannot do anything. You cannot go and work. You cannot get  
21 up, hardly. These things feel --

22 Q As the -- as it has been known that the -- and the -- and  
23 the -- did you know that the defendant had been diagnosed with  
24 mild TB while in detention and he --

25 A I don't know about that.



1 Q -- he has --

2 A At home, but --

3 Q So --

4 A -- if they told us that.

5 Q So had you been tested you would have known that the  
6 defendant was sick?

7 A Yeah, he need treatment.

8 Q So --

9 A We'll work on it.

10 MR. SHEIKH: So let it be -- let it be known that the  
11 defendant was sick and the mother testifies that the defendant  
12 was sick while -- while he was -- and it has been proven.

13 THE COURT: I've heard everything she said.

14 MR. SHEIKH: All right.

15 THE COURT: I pay careful attention to what --

16 MR. SHEIKH: Thank --

17 THE COURT: -- every witness says.

18 MR. SHEIKH: All right.

19 THE COURT: Do you have any more questions or --

20 MR. SHEIKH: Thank you, Your Honor.

21 THE COURT: Any cross-examination?

22 MR. KELLHOFER: No thank you, Your Honor.

23 THE COURT: Thank you very much for coming. You may  
24 step down.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: Any other witnesses for you?

2 MR. SHEIKH: I could call my sister, if you, if you  
3 want --

4 THE COURT: I'm --

5 MR. SHEIKH: -- to go on.

6 THE COURT: I'm not going to tell you how to run your  
7 case.

8 MR. SHEIKH: All right.

9 THE COURTROOM DEPUTY: Raise your right hand and state  
10 your name for the court, please.

11 MS. SHEIKH: Sara.

12 THE COURTROOM DEPUTY: Do you affirm --  
13 State your full name for the court.

14 MS. SHEIKH: Sara Sheikh.

15 SARA SHEIKH, DEFENDANT'S WITNESS, AFFIRMED

16 THE COURTROOM DEPUTY: Please take the stand.

17 DIRECT EXAMINATION

18 BY MR. SHEIKH:

19 Q Could you state your name for the court, please?

20 A My name is Sara, Sara Sheikh.

21 Q How are you related to the defendant?

22 A Your sister.

23 Q And how long have you known him?

24 A My entire life.

25 Q And how would you define his character and, and how he is

1 in the community in regards to his character and, and --

2 A He's a good person. He's, he's friendly. He's got a lot  
3 of friends and in the community he goes to the mosque a lot and  
4 he helps out whenever needed. He volunteers at the Food  
5 Pantry. He donates blood whenever possible. He's got a lot of  
6 friends that are in college as well. He's active in our Muslim  
7 Student Association. He just, just couldn't go to college or  
8 just couldn't complete his studies, but that doesn't make an  
9 impact on his personality or say anything bad about the person  
10 that he is.

11 Q Were you aware of any illness or medical health issues that  
12 he had?

13 A Similar to what my mom talked about. I feel like he might  
14 have been depressed, which is understandable, because he  
15 couldn't find a job and he was trying to go to college, but it  
16 wasn't working out as well. But he was trying. It's not like  
17 he wasn't making the effort. And he was sick.

18 But yeah, I agree.

19 Q Will -- if the defendant were to be released on bail,  
20 would, would he be --

21 A Yeah, absolutely.

22 Q -- better, a lot better?

23 Would he be -- are -- be a better positive and wouldn't  
24 try to flee the country?

25 A Yeah, of course. I don't think he would take the chance to

1 do that, again, but I'm sure we'll make sure you stay at home  
2 and do whatever conditions they set for us.

3 Q Is that all you have for your, the character for your --

4 A Yeah.

5 MR. SHEIKH: Okay.

6 THE COURT: You may cross-examine.

7 MR. KELLHOFER: No thank you, Your Honor.

8 THE COURT: Thank you, ma'am. You may step down.

9 Any other witnesses?

10 MR. SHEIKH: No. That'll be all.

11 THE COURT: Thank you.

12 I'll be happy to hear the arguments of the United States at  
13 this time.

14 MR. KELLHOFER: Thank you, Your Honor.

15 With regard to the factors to be considered, Your Honor,  
16 the nature and circumstances of the offense, I believe that  
17 Special Agent Maslow provided a summary of that. He explained  
18 particularly three facets of the investigation that led us here  
19 today, the first being Facebook information. A lot of that  
20 simply was provided for Your Honor's reference to the intent of  
21 this individual, his, his beliefs at the time, which were  
22 apparent from, from the postings that he, he provided on,  
23 publicly, on the Internet.

24 I would, I would point out that they're certainly of a very  
25 violent nature, I believe relevant for your consideration; that

1 they are of an individual willing to sacrifice everything and  
2 ultimately himself to be a martyr; that there was a sincere  
3 interest in weaponry, as you can see postings even of firearms  
4 available at Walmart in North Carolina, postings of a desire to  
5 get hold of a weapon. While he certainly was not charged, Your  
6 Honor, with an attempt to commit activity here in the United  
7 States. I would specifically note Government Exhibit 5 --

8 THE COURT: None of your exhibits are in evidence.

9 MR. KELLHOFER: Well -- very well, Your Honor.

10 THE COURT: I mean, you -- you -- and you did not have  
11 your agent describe Government Exhibit 5, so I have no idea  
12 what it is.

13 But you can continue.

14 MR. KELLHOFER: Very well, Your Honor.

15 Based on the -- I would ask, then, based on the testimony  
16 of the agent that the Government's Exhibit 1 through 9 be  
17 admitted for your consideration.

18 THE COURT: This isn't the time to do that. The  
19 evidence closed a while ago.

20 MR. KELLHOFER: Very well, Your Honor.

21 As you heard from the testimony of Agent Maslow, the  
22 circumstances of this crime involved a desire to travel  
23 overseas and to engage in, in fighting, Your Honor. As was  
24 described by Agent Maslow, that included joining a terrorist  
25 group. The weight of the evidence from the testimony of Agent

1 Maslow, we believe, to be hefty, Your Honor, and in, certainly  
2 in the Government's favor.

3 The history and characteristics of the individual, as you  
4 additionally did hear, there is no evidence that this  
5 individual has in the past committed any crimes and we take  
6 that into account.

7 Nonetheless, the danger to any person, and particularly the  
8 community, we believe to be great based off of the crime here  
9 that this individual was prepared to engage in and we  
10 additionally believe that --

11 MR. SHEIKH: Uh --

12 THE COURT: You get to say what you want to say later.

13 MR. KELLHOFER: -- his travel overseas, his ability to  
14 travel overseas or, I guess, past travel certainly displays  
15 that he has an awareness of traveling about. He, as from the  
16 testimony, has stated that he has contacts overseas. There's  
17 been testimony that he has family members overseas as well and  
18 certainly within the United States one can flee the  
19 jurisdiction.

20 Based off of the weight and the danger to the community as  
21 well as the risk of flight and, and certainly given the risk of  
22 a conviction, an individual here based off that weight has a  
23 sincere incentive to avoid making himself present.

24 I will note that the third-party custodian, from the  
25 Government's viewpoint, I believe we'll agree with the court

1 that this individual would be an excellent third-party  
2 custodian. I would note that as Your Honor stated, however,  
3 this prosecution and this charge has, has nothing to do with  
4 his parents or his family, who appear to be nothing but, but  
5 loving individuals. Unfortunately, given the factors under  
6 consideration, it's our position that no other means would be  
7 sufficient to maintain this individual making himself present.

8 Thank you.

9 THE COURT: Thank you.

10 Now's the time for you to say whatever you want to say.

11 MR. SHEIKH: Thank you, Your Honor.

12 I'd like to rebut and answer the prosecution assertion that  
13 I am a threat to the society and a flight risk. As you -- as  
14 I've --- as we have crossed witness they have -- my -- my --  
15 the witnesses have testified to the defendant's, the  
16 defendant's good character in the community and the prosecutor  
17 said the defendant has no criminal record in the history or the  
18 intent to hurt anybody within the United States and the -- and  
19 the -- and the people of the community. And the defendant can  
20 get the community's religious leaders and a -- and a -- and the  
21 Muslim Student Association to sign petition in, in regards to  
22 his good character supporting that he is a good citizen, can --  
23 the defendant can provide -- the defendant --

24 THE COURT: This was the time to provide anything you  
25 wanted to provide.

1 MR. SHEIKH: I told -- I did request my parents to  
2 bring, did ask my --

3 THE COURT: But see, you don't have to request  
4 anybody.

5 MR. SHEIKH: But I was in --

6 THE COURT: Had, had you been familiar with our Rules  
7 you --

8 MR. SHEIKH: No. I was in jail.

9 THE COURT: -- would have understood, as I told you at  
10 your initial appearance, you had the right to use a subpoena.

11 MR. SHEIKH: I was in jail and I did request my  
12 parents to bring a list of people.

13 THE COURT: But I offered you lawyers. You refused.

14 MR. SHEIKH: I had --

15 THE COURT: You refused them.

16 MR. SHEIKH: Yeah.

17 THE COURT: And this was the time to bring everything  
18 you wanted into court for me to listen to.

19 MR. SHEIKH: I did --

20 THE COURT: That time has passed.

21 MR. SHEIKH: I did request --

22 THE COURT: Go ahead.

23 MR. SHEIKH: -- my parents to bring and if -- if -- if  
24 I would call my religious representative, they would testify to  
25 my good character and --



1           THE COURT: Oh, I think, I think there's sufficient  
2 evidence from your family that, generally speaking, here in  
3 this country in this community you are of good character. You  
4 are a helpful person. You are a friendly person, as your  
5 sister testified --

6           MR. SHEIKH: And -- and --

7           THE COURT: -- but the charges are not that you're a  
8 bad person. The charges are that you provided material support  
9 to form a terrorist organization. That's the charge.

10          MR. SHEIKH: All right.

11          As my parents said, I've always, the defendant has always  
12 helped, helped the injured and the, the intention was, the  
13 defendant was to help people suffering overseas rather than to  
14 -- considering his, his good character in the community, how  
15 can it be that the defendant's intention was to harm other  
16 people overseas rather than to, rather than help, helping them?

17          So if the -- if the -- if the defendant donates blood  
18 regularly and supports, and supports and is a good member of  
19 the community, how can his intention be contradictory to going  
20 overseas and committing the acts or terrorism, as the  
21 prosecutor alleges that the defendant --

22          THE COURT: Ultimately, a jury will answer that  
23 question.

24          MR. SHEIKH: Right.

25          THE COURT: I don't have to answer that question --

1 MR. SHEIKH: Right.

2 THE COURT: -- although I should tell you very quickly  
3 that there are a lot of people who act contrary to their  
4 general character. The evidence I heard -- and you may want to  
5 talk about it, you may not -- the evidence I heard, and I  
6 incorporate the affidavit filed by Special Agent Maslow into my  
7 deliberations as a part of the court's record, portrays a  
8 picture of someone who is willing to become a martyr --

9 MR. SHEIKH: Willing --

10 THE COURT: -- who is, talks to people about fighting  
11 jihad, who talks about traveling and helping people against a  
12 corrupt government, talks about doing things. Had you simply  
13 picked the right organization, that, that may have implicated a  
14 different crime, that is, interfering in the foreign relations  
15 of the United States, but it wouldn't have anything to do with  
16 the organization you picked.

17 MR. SHEIKH: I --

18 THE COURT: The organization you picked and the  
19 evidence I've heard suggest that you knew and posted on your  
20 website, or on Facebook, your Facebook page, your account,  
21 however you want to call it, that you knew that this  
22 organization was a foreign terrorist organization as designated  
23 by the United States. It's not my place nor a jury's place to  
24 determine whether that designation's proper. That designation  
25 was made by the appropriate official in the United States

1 Government.

2 So that's not even an issue. The only question is whether  
3 you provided, or attempted to provide material support to that  
4 organization.

5 MR. SHEIKH: According to the affidavit, statements as  
6 taken out of describe, numerous, numerous occasion it says,  
7 "The defendant wished to travel overseas to help with medical  
8 supplies and the injured."

9 And, and regards to --

10 THE COURT: Well, if you weren't --

11 MR. SHEIKH: -- being a designated, to being a  
12 designated organization, I'm sure even the President and the  
13 Intelligence community does not know right now what's happening  
14 in Syria and --

15 THE COURT: They don't have to know what's happening  
16 in Syria.

17 MR. SHEIKH: If they --

18 THE COURT: They don't have to know anything.

19 MR. SHEIKH: If -- if they --

20 THE COURT: All they have to know, and as you knew,  
21 that the organization, Jabhat al-Nusra, is a terrorist  
22 organization as designated by the State Department. That,  
23 that's all they have to know. You could have -- if you, all  
24 you wanted to do was to go over and provide medical supplies to  
25 that organization --

1 MR. SHEIKH: Yeah.

2 THE COURT: -- to help little children, that would  
3 violate the law.

4 MR. SHEIKH: But, but it says here that the defendant  
5 is aware, is aware that the Jabhat al-Nusra is, is not, is not  
6 a, is not a part of a terrorist organization because it has  
7 been annulled and is just one of the regular, one of the  
8 thousands of regular --

9 THE COURT: You'll have an opportunity at trial to  
10 present evidence that that designation is no longer viable and  
11 no longer active. The information I reviewed and the testimony  
12 and evidence I've heard contradicts what you just said.

13 MR. SHEIKH: That'll be all.

14 THE COURT: Thank you.

15 The evidence in this case is extremely strong. It  
16 consists, would consist at trial of either the full transcripts  
17 of your conversations or live testimony of your activities. It  
18 would damn you from your own mouth. It would consist of the  
19 postings on your Facebook account or page recognizing the  
20 terrorist nature of the organization and the evidence I have  
21 heard is extremely strong that you intended to provide support,  
22 material support to that organization.

23 On the other side, your, there's no question but that your  
24 father, mother, and sister would do whatever they could to keep  
25 you focused, but both of them, both your father and your mother

1 made it crystal clear that they believe that you lack focus and  
2 that all you do is sit in front of a computer and whether you  
3 ever intended to do anything harmful to anybody or not is not  
4 the issue. It's not the issue whether you're a bad person.  
5 It's not whether you actually intended to go kill anybody in  
6 Syria. That's, that's not the issue, although if one believes  
7 your statements that's probably true.

8 Your father and mother are, would make suitable third-party  
9 custodians. I've so found, but that's not sufficient. I find  
10 by clear and convincing evidence that you constitute both a  
11 risk of flight and a danger to the community. If 14, or  
12 another person or the community. If 14 million people,  
13 probably closer to 30 million people, can sneak into the United  
14 States, 1 person should be able to sneak out. I mean, it's  
15 just, it's that straightforward and simple.

16 Anyway, Mr. Marshal, he'll be in your sight, your custody.  
17 We'll stand in recess.

18 COURT SECURITY OFFICER: All stand. This Honorable  
19 court is in recess.

20 (Proceedings concluded at 11:59 a.m.)  
21  
22  
23  
24  
25

## 1 CERTIFICATE OF COURT-APPROVED TRANSCRIBER

2 I, Janice Russell, court-approved transcriber, in and  
3 for the United States District Court for the Eastern District  
4 of North Carolina, do hereby certify that pursuant to Section  
5 753, Title 28, United States Code, that the foregoing is a true  
6 and correct transcript from the official electronic sound  
7 recording of the proceedings in the above-entitled matter and  
8 that the transcript page format is in conformance with the  
9 regulations of the Judicial Conference of the United States.

10  
11 Dated this 9th day of January, 2014.

12  
13  
14 /s/ JANICE RUSSELL

JANICE RUSSELL

15 COURT-APPROVED TRANSCRIBER  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25